

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

UNITED STATES OF AMERICA                    ) CAUSE NO. 3:04-CR-240-G  
                                                  (  
vs.                                                )  
                                                  ( JULY 26, 2007  
                                                  ) DALLAS, TEXAS  
HOLY LAND FOUNDATION, ET AL   ( 1:30 P.M.

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VOLUME 3-B

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STATEMENT OF FACTS

BEFORE THE HONORABLE A. JOE FISH  
UNITED STATES DISTRICT JUDGE  
and a jury

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A P P E A R A N C E S

FOR THE GOVERNMENT: UNITED STATES ATTORNEY'S OFFICE  
1100 COMMERCE, 3RD FLOOR  
DALLAS, TEXAS 75242  
BY: MR. JIM JACKS  
MR. BARRY JONAS  
MS. ELIZABETH SHAPIRO  
MR. NATHAN GARRETT

FOR THE DEFENDANT: FREEDMAN, BOYD, DANIELS  
(SHUKRI BAKER) & HOLLANDER  
20 FIRST PLAZA, SUITE 700  
ALBUQUERQUE, NEW MEXICO 87102  
BY: MS. NANCY HOLLANDER  
MS. TERESA DUNCAN

1                   FOR THE DEFENDANT:    LAW OFFICE OF JOSHUA L. DRATEL  
2                   (MOHAMED EL-MEZAIN)   14 WALL STREET, 28TH FLOOR  
3                                       NEW YORK, NEW YORK 10005  
4                                       BY: MR. JOSHUA DRATEL  
5                                       MR. AARON J. MYSLIWIEC

6                   FOR THE DEFENDANT:    LAW OFFICE OF MARLO P. CADEDDU  
7                   (MUFID ABDULQADER)   3232 MCKINNEY AVENUE, SUITE 700  
8                                       DALLAS, TEXAS 75204  
9                                       BY: MS. MARLO P. CADEDDU

10                  FOR THE DEFENDANT:    LAW OFFICE OF LINDA MORENO  
11                  (GHASSAN ELASHI)     P.O. BOX 10985  
12                                       TAMPA, FLORIDA 33679  
13                                       BY: MS. LINDA MORENO

14                                       JONES DAY  
15                                       555 CALIFORNIA ST., 26TH FLOOR  
16                                       SAN FRANCISCO, CA 94104  
17                                       BY: MR. JOHN D. CLINE

18                  OFFICIAL COURT REPORTER:   SHAWN M. McROBERTS, RMR, CRR  
19                                       1100 COMMERCE STREET, RM. 1654  
20                                       DALLAS, TEXAS 75242  
21                                       (214) 753-2349

1           THE COURT: Good afternoon, ladies and gentlemen.  
2       Let me introduce to you Mr. Shawn McRoberts who is reporting  
3       for us this afternoon. The lady who has been reporting, Ms.  
4       Cass Casey, was taken ill at the end of the morning session,  
5       so Mr. McRoberts is pinch-hitting for us this afternoon.

6           Go ahead, Mr. Jacks.

7           MR. JACKS: Thank you, Your Honor.

8       Q.    (BY MR. JACKS) Agent Burns, I believe before we stopped  
9       for the lunch break you were talking about some public record  
10      documents that you had obtained during the course of your  
11      investigation. Is that correct?

12      A.    That is correct.

13      Q.    And I believe we were talking about Government's Exhibit  
14      No. 11-41. And let me ask you, do you have a copy of that in  
15      front of you, a paper copy?

16      A.    I do.

17      Q.    How many pages is that exhibit?

18      A.    Four pages.

19      Q.    And can you see there on the screen in front of you one  
20      of those pages?

21      A.    Yes.

22      Q.    All right. And I believe this was the page that we had  
23      reached when we stopped for our break. If you could, just  
24      tell us what is depicted on that particular page of that  
25      exhibit.

1 A. The name and respective addresses of the directors or  
2 trustees for the Holy Land Foundation.

3 Q. Go ahead. Just tell us who is shown there as the  
4 director and their city of residence.

5 A. Mohammad El-Mezain, 151 Derrom Avenue, Patterson, New  
6 Jersey, Shukri Baker, 1111 Abrams Road, 103, Richardson,  
7 Texas, Ghassan Elashi, 850 North Dorothy Drive, Suite 516,  
8 Richardson, Texas.

9 Q. And go to the next paragraph, please. And that shows  
10 what or lists whom?

11 A. The names and addresses of the respective officers.

12 Q. And are those, essentially, those names the same as in  
13 paragraph nine?

14 A. Yes, they are.

15 Q. And it shows to be -- this application to have been filed  
16 on what date or completed on what date?

17 A. September 28th, 1992.

18 Q. Can you tell me, is there another page to that exhibit?

19 A. There is.

20 Q. Would you go to that, please?

21 Now, this exhibit purports to be from what entity or  
22 organization?

23 A. The Secretary of State for California.

24 Q. And is it a part, nonetheless, of the records that were  
25 filed with the Texas Secretary of State?

1 A. Yes.

2 Q. And if you could, just summarize what is contained  
3 within, say, those first two or three paragraphs.

4 A. It Says that the Occupied Land Fund was incorporated  
5 under the laws of the state of California on January 11th,  
6 1989.

7 It states that on September 16th, 1991, that a  
8 certificate of amendment was filed changing the name of the  
9 Occupied Land Fund to the Holy Land Foundation for Relief and  
10 Development, and that on March 25th, 1992, the H.L.F. filed a  
11 Statement by Domestic Nonprofit Corporation in accordance with  
12 several I guess codes or sections of their corporations code,  
13 and that the address was 5855 Green Valley Circle, No. 207,  
14 Culver City, California.

15 Q. Is that the last page of that exhibit?

16 A. It is.

17 Q. All right. Let me direct your attention, do you have in  
18 front of you an item labeled as Government's Exhibit No. 8-1?

19 A. I don't know that I have that one with me.

20 Q. Let me ask you -- I will move on to another subject  
21 matter. Did you seek records pertaining to an organization  
22 called the Islamic Association for Palestine, or I.A.P.?

23 A. Yes, I did.

24 Q. Do you have Government's Exhibit No. 11-33 in front of  
25 you?

1 A. Yes.

2 Q. And how long is that exhibit in terms of the number of  
3 pages?

4 A. Four pages.

5 Q. And would you just tell us where that exhibit was  
6 obtained from, whose records are contained within that  
7 exhibit?

8 A. The Secretary of State for California.

9 Q. And does that have a certification as to whether or not  
10 it is an official public record from the state of California?

11 A. It does.

12 MR. JACKS: Judge, we move the admission of  
13 Government's Exhibit No. 11-33.

14 THE COURT: Any objection?

15 MS. HOLLANDER: No objection.

16 THE COURT: Government's Exhibit No. 11-33 is  
17 admitted.

18 Q. (BY MR. JACKS) Agent Burns, is this the first page of  
19 that exhibit?

20 A. Yes.

21 Q. And is it the certification that refers to the exhibits  
22 or the papers that follow?

23 A. Yes.

24 MR. JACKS: Let's go to the second page, please. Q.

25 (BY MR. JACKS) And again, is this part of the

1 certification from the Secretary of State of California?

2 A. Yes, it is.

3 MR. JACKS: The third page, please.

4 Q. (BY MR. JACKS) And what is depicted on the third page,  
5 Agent Burns, if you don't mind?

6 A. These are the articles of incorporation of the Islamic  
7 Association for Palestine.

8 Q. And does it show when they were filed with the California  
9 Secretary of State?

10 A. November 12th, 1986.

11 Q. And is that the stamp that appears in the upper right  
12 hand corner?

13 A. Yes.

14 Q. Would you please tell us what is stated in paragraph II?

15 A. "This corporation is a religious corporation, and is not  
16 organized for the private gain of any person. It is organized  
17 under the Nonprofit Religious Corporation Law primarily for  
18 religious purposes."

19 Q. And with regard to paragraph III, who is shown to be the  
20 agent for service of that corporation?

21 A. Ghassan Elashi.

22 Q. And that address, can you tell us, is that the same  
23 address that appeared in the California Secretary of State's  
24 records for the Occupied Land Fund?

25 A. I believe it is. Let me double check. Yes, it is.

1           MR. JACKS: Let's go to the full page of this  
2 particular exhibit. And would you please enlarge, if you  
3 don't mind, Paragraph C.

4       Q.    (BY MR. JACKS) Agent Burns, would you tell us what is  
5 shown in Paragraph C?

6       A.    It states, "No substantial part of the activities of this  
7 corporation shall consist of carrying on propaganda, or  
8 otherwise attempting to influence legislation, and the  
9 corporation shall not participate or intervene in any  
10 political campaign (including the publishing or distribution  
11 of statements) on behalf of any candidate for public office."

12      Q.    And who is shown to have signed that document as the  
13 incorporator?

14      A.    Ghassan Elashi.

15      Q.    And the date of that signature?

16      A.    November 5th, 1986.

17      Q.    Is that the last page of that exhibit?

18      A.    It is.

19      Q.    Do you have Exhibit No. 11-13 in front of you?

20      A.    Yes, I do.

21      Q.    How many pages is that exhibit?

22      A.    Three pages.

23      Q.    And where did that exhibit come from?

24      A.    The Secretary of State for Texas.

25      Q.    And what does it pertain to? What organization does it



1     pertain to?

2     A.     The Islamic Association for Palestine.

3             MR. JACKS:   Judge, we move the admission of  
4     Government's Exhibit No. 11-13.

5             THE COURT:   Any objection?

6             MS. HOLLANDER:  This one is not on the screen, so I  
7     am having a little trouble figuring out which one it is.  Do  
8     you have this one?

9             MR. JACKS:   Do you want it on the screen to look at  
10    it?

11            MS. HOLLANDER:  Yes.

12            MR. JACKS:   Would you go ahead and put it on the  
13    screen?

14    Q.     (BY MR. JACKS)  Can you see it, Agent Burns?  Is it in  
15    front of you?

16    A.     I can, and the front cover of the exhibit is not the  
17    correct exhibit.

18    Q.     Okay.  We will come back to that, then.

19            Let me ask you to look at 11-12.  Do you have that in the  
20    binder?

21    A.     I do.

22    Q.     And how many pages is that exhibit?

23    A.     Six pages.

24    Q.     And that exhibit was derived from what agency?

25    A.     It appears to be the Dallas County Clerk's Office.

1 Q. And is there a certification on the front of that  
2 exhibit?

3 A. It is on the back actually.

4 Q. All right. And what does it pertain to?

5 A. The Islamic Association for Palestine in North America.

6 MR. JACKS: Would move the admission of Government's  
7 Exhibit No. 11-12.

8 THE COURT: Any objection?

9 MS. HOLLANDER: I believe that the incorporation  
10 document is just one part of the exhibit and there is some  
11 additional pages. Are you moving the whole thing?

12 MR. JACKS: Yes.

13 MS. HOLLANDER: No objection, Your Honor.

14 THE COURT: Government's Exhibit No. 11-12 is  
15 admitted.

16 Q. (BY MR. JACKS) Agent Burns, is this the first page of  
17 the exhibit?

18 A. It is.

19 Q. And just describe, if you would, Agent Burns, what this  
20 document purports to be.

21 A. This is filed with the assumed name records certificate  
22 of ownership for unincorporated business or profession.

23 Q. And what business or profession is represented to be  
24 filing this document?

25 A. The Islamic Association for Palestine in North America.

1 Q. And their address, please?

2 A. 13931 North Central Expressway, 318-411, Dallas, Texas.

3 Q. Can you see in terms of -- There is some boxes there to  
4 be checked regarding the type of business, and what box is  
5 checked and what description is in there for the manner in  
6 which this business is to be conducted?

7 A. Yes. It says "association."

8 Q. The box there, the outlined box, what is contained within  
9 that square?

10 A. A certificate of ownership.

11 Q. And is that plural? Does it show to be plural owners?

12 A. Yes, it does.

13 Q. Okay. And who is shown to be the owners of this  
14 association, if you will?

15 A. Ghassan A. Dahduli at P.O. Box 741805, Dallas, Texas, and  
16 Basman Elashi at 13931 North Central Expressway, 318-411,  
17 Dallas, Texas.

18 Q. And would you indicate if there is a date or signatures  
19 or names printed for those two individuals there?

20 A. Yes. Ghassan Dahduli and Basman Elashi, and the date is  
21 March 18th, 1993.

22 Q. Do you see the stamp that appears on that page also?

23 A. Yes, in the upper right hand corner.

24 Q. All right. What date is represented in that stamp?

25 A. March 8th, 1993.

1 Q. And what is shown on this second page, if you will, Agent  
2 Burns?

3 A. The certificate of authenticity.

4 Q. From the Dallas County clerk?

5 A. Yes.

6 MR. JACKS: Okay. Next page.

7 Q. (BY MR. JACKS) And was this page included among the  
8 records that were filed with the Dallas County clerk that you  
9 got from the Dallas County clerk for this entity?

10 A. Yes.

11 Q. And just, if you would, just tell us what it purports to  
12 be.

13 A. The articles of incorporation for the American Middle  
14 Eastern League for Palestine.

15 Q. And when and where does that document show to have been  
16 filed, based on the stamp?

17 A. Based on the stamp it is with the Secretary of State of  
18 Texas on March 2nd, 1990.

19 Q. All right. And if you would, could you tell us what is  
20 stated in Article Four?

21 A. It states, "The purpose for which the corporation is  
22 organized are:

23 To encourage the general public to study the Middle East  
24 and its social, religious and political history.

25 To promote cooperation among all groups, business,

1 ethnic, religious and political.

2 To conduct educational services in the fields of  
3 religion, education, society and history concerning  
4 Palestinian issues both in the United States and abroad."

5 MR. JACKS: Could you show paragraph six on that  
6 document?

7 Q. (BY MR. JACKS) And just tell us, if you would, or  
8 briefly what is stated in Article Six?

9 A. It says, "The number of directors constituting the  
10 initial board of directors is three (3), and the name and  
11 address of the persons who are to serve as directors until the  
12 first annual meeting of the shareholders or their successors  
13 are elected and qualified is:

14 Ahmed Agha, 2500 Wildwood Ponca City, Oklahoma.

15 Yasser K. Saleh Bushnaq, P.O. Box 741805, Dallas, Texas.

16 Ismail Elbarasse 5942 Jennings Lane, Springfield,  
17 Virginia."

18 Q. Now, where have you -- You testified earlier about an  
19 Ismail ElbarasseElbarasse Is that correct?

20 A. That is correct.

21 Q. And what was the subject of your testimony about  
22 Ismail -- Where did you make reference to him earlier today?

23 A. You had asked me a question about Mr. Elbarasse, and I  
24 can't remember exactly in what context that question was.

25 Q. Well, was that one of the search warrants that was

1       executed?

2       A.     Yes, it was.

3       Q.     In northern Virginia?

4       A.     Yes.

5       Q.     And what is shown in Article Seven there as the  
6       incorporator?

7       A.     It states the incorporator is Yasser K. Saleh Bushnaq at  
8       the same address as listed on the previous page.

9       Q.     And when was this document signed, according to the  
10      verification there?

11      A.     February 27th, 1990.

12      Q.     Is there another page to that exhibit?

13      A.     Yes, there is.

14      Q.     And just Paragraph 1, if you would just tell us generally  
15      what it states.

16      A.     This is an assumed name certificate for an incorporated  
17      business or profession, and it says, "The assumed name under  
18      which the business or professional service is to be conducted  
19      is the Islamic Association for Palestine in North America,  
20      (I.A.P.)."

21      Q.     And does it have a date stamp there when this document  
22      was filed?

23      A.     March 8th, 1990.

24      Q.     All right. So that paragraph you just read says the  
25      assumed name that it will operate under. Is that correct?

1 A. That is correct.

2 Q. What does the next paragraph say regarding its corporate  
3 name?

4 A. It says that "The name of the incorporated business or  
5 profession as stated in its Articles of Incorporation"--I  
6 can't read the last word--"is the American Middle Eastern  
7 League for Palestine."

8 Q. And then does it contain an address, the same address  
9 that appeared on the earlier page?

10 A. It says an address of Two Oaks Plaza, 6730 LBJ Freeway,  
11 Suite 2150, Dallas, Texas, and has the same P.O. Box listed in  
12 the latter part of the document as the earlier P.O. Box  
13 741805, Dallas, Texas.

14 Q. And does that contain another date stamp on it on the  
15 left hand side there?

16 A. Yes, it does.

17 Q. For what date?

18 A. March 8th, 1990.

19 Q. Is there another page to that exhibit?

20 A. Yes, there is.

21 Q. Would you please go to that page, please? And is that  
22 the certification regarding those records from the Dallas  
23 County clerk?

24 A. Yes, it is.

25 Q. Is that the last page of the exhibit?

1 A. Yes.

2 Q. Do you recall Doctor Levitt's testimony regarding the  
3 Hamas charter or covenant?

4 A. Yes, I do.

5 Q. Do you recall his testimony regarding one of the  
6 publishers of the Hamas covenant?

7 A. I do.

8 MR. JACKS: Could you show Government's Exhibit  
9 No. 3-12?

10 May I approach the witness, Your Honor?

11 THE COURT: Yes, sir.

12 Q. (BY MR. JACKS) Agent Burns, I am going to show you the  
13 original of Government's Exhibit No. 3-12. And have you seen  
14 that item before?

15 A. Yes, I have.

16 Q. What is it?

17 A. This is a copy of the Hamas charter that was published by  
18 the I.A.P.

19 Q. That particular copy, where was it recovered?

20 A. It was recovered from the home of Ismail Elbarasse.

21 Q. During that search warrant you testified about earlier?

22 A. Yes.

23 Q. Now, you mentioned in your testimony or there was  
24 reference to an organization called A.M.E.L. Did you locate  
25 other public records regarding this A-M-E-L?



1 A. Yes, I did.

2 Q. Do you have Government's Exhibit No. 11-2 in front of  
3 you?

4 A. Yes, I do.

5 Q. And how many pages does that exhibit consist of?

6 A. Two pages.

7 Q. And where did those documents come from?

8 A. The Secretary of State of Texas.

9 Q. Is there a certification that they are records from the  
10 Secretary of State?

11 A. Not with this exhibit.

12 Q. With regard to that exhibit, what entity does it refer  
13 to?

14 A. The American Middle Eastern League for Palestine.

15 MR. JACKS: Judge we move the admission of  
16 Government's Exhibit No. 11-2.

17 THE COURT: Any objection?

18 MS. HOLLANDER: No objection, Your Honor.

19 THE COURT: Government's Exhibit No. 11-2 is  
20 admitted.

21 MR. JACKS: Would you show the first page, please?

22 Q. (BY MR. JACKS) Now, is there a date stamp on this  
23 exhibit showing when it was filed and what agency it was filed  
24 with?

25 A. Yes. It was filed on March 2nd, 1990 with the Secretary

1 of State for Texas.

2 Q. And this exhibit is what?

3 A. The Articles of Incorporation for the American Middle  
4 Eastern League for Palestine.

5 Q. And does this look like a copy of the document that was  
6 included in the Dallas County clerk's records?

7 A. Yes, it appears to be.

8 Q. All right. Is it the same as part of the records that  
9 were -- you talked about in Government's Exhibit No. 11-12  
10 just a few moments ago?

11 A. Yes.

12 Q. All right. Do you have Government's Exhibit No. 11-35 in  
13 front of you?

14 A. Yes, I do.

15 Q. And that particular exhibit consists of how many pages?

16 A. Four pages.

17 Q. I am sorry?

18 A. Four pages.

19 Q. Where did it come from, those particular documents?

20 A. The Dallas County Clerk's Office.

21 Q. And are they certified as official public records from  
22 the Dallas County Clerk's Office?

23 A. Yes.

24 Q. Pertaining to what entity?

25 A. The Islamic Association for Palestine in North America,

1 I.A.P.

2 MR. JACKS: Move the admission of Government's  
3 Exhibit No. 35, Your Honor.

4 THE COURT: Any objection?

5 MS. HOLLANDER: No objection.

6 THE COURT: Government's Exhibit No. 11-35 is  
7 admitted.

8 MR. JACKS: Would you show the first page, please?

9 Q. (BY MR. JACKS) Now, Agent Burns, is this merely another  
10 copy of the document that was contained within the records of  
11 the Dallas County clerk?

12 A. Yes.

13 Q. And regarding this entity A.M.E.L.

14 A. That is correct.

15 Q. And of those pages that you have in front of you, are any  
16 of them pages that you haven't identified previously to the  
17 jury?

18 A. No.

19 Q. All right. Let me ask you to look at Government's  
20 Exhibit No. 11-10, if you have that in front of you.

21 A. Yes.

22 Q. No. 11-10 consists of how many pages, if you would?

23 A. One page.

24 Q. And from where is it derived?

25 A. The Dallas County clerk.

1 Q. Pertaining to?

2 A. The I.A.P. Information Office.

3 MR. JACKS: Move the admission of Government's  
4 Exhibit No. 11-10, Your Honor.

5 THE COURT: Any objection?

6 MS. HOLLANDER: No objection.

7 THE COURT: Government's Exhibit No. 11-10 is  
8 admitted.

9 MR. JACKS: And could you show that page, please?

10 Q. (BY MR. JACKS) And if you would, Agent Burns, just kind  
11 of walk us through this document in terms of what it  
12 represents or what it states.

13 A. This is an assumed name certificate. It says that the  
14 name under which the business will be operating is the I.A.P.  
15 Information Office, again at P.O. Box 741805 Dallas, Texas,  
16 and that the name of the incorporated business is American  
17 Middle Eastern League for Palestine.

18 Q. And the address of Two Oaks Plaza, is that the same  
19 address that has appeared in some of these earlier records?

20 A. Yes.

21 Q. The date stamp when this was filed was what?

22 A. March 13th, 1990.

23 Q. Is there a signature of any individual on that page?

24 A. It says "signature of officer," and it appears to be the  
25 same signature on the other one before, Yasser Bushnaq.

1 Q. Agent Burns, are you familiar with an association that  
2 went by the name of United Association of Studies and  
3 Research?

4 A. Yes, I am.

5 Q. Did you seek out any records that might pertain to that  
6 particular organization?

7 A. Yes, I did.

8 Q. Do you have Government's Exhibit No. 11-40 in front of  
9 you?

10 A. Yes.

11 Q. Would you tell us how many pages that exhibit consists  
12 of?

13 A. Twenty-five.

14 Q. And where were those pages obtained from?

15 A. They were obtained from the Secretary of State for  
16 Virginia, but they include also records from the Secretary of  
17 State for Illinois.

18 Q. When you say they also contain records from the Secretary  
19 of State from Illinois, were those a part of the records that  
20 you got from the Secretary of State for Virginia?

21 A. Yes.

22 Q. And those -- Is there a certification with those Virginia  
23 records?

24 A. Yes.

25 MR. JACKS: Your Honor, we move the admission of

1 Government's Exhibit No. 11-40.

2 THE COURT: Any objection?

3 MS. HOLLANDER: No objection.

4 THE COURT: Government's Exhibit No. 11-40 is  
5 admitted.

6 MR. JACKS: And if you could just show the first  
7 page, please.

8 Q. (BY MR. JACKS) Looking at the first page, Ms. Burns, can  
9 you just tell us what that page shows?

10 A. It shows that the corporation's name is the United  
11 Association for Studies and Research, and the registered  
12 agent's name and address.

13 Q. What is the name of the registered agent?

14 A. Yousef Saleh.

15 Q. And what city is he supposed to be located in?

16 A. Springfield, Virginia.

17 Q. And the county?

18 A. Fairfax County.

19 Q. And where does it show that corporation or entity  
20 originally came into existence?

21 A. Illinois.

22 Q. The pages -- You can just look at them if you don't mind,  
23 but what follows that page, if you could describe for us?

24 A. The pages immediately following the first page are the I  
25 guess corporate records for the United Association for Studies

1 and Research in the state of Virginia listing directors and  
2 principal officers.

3 Q. Is that the second page?

4 A. Yes.

5 MR. JACKS: Would you go to that, please?

6 Q. (BY MR. JACKS) And if you would, just tell us what you  
7 were referring to there, the parts you observed?

8 A. The list of directors and principal officers.

9 Q. Who are they shown to be?

10 A. A man named Abdullatif Alkusari listed as the treasure,  
11 Yousef Saleh is also listed as treasurer, Abdurahman Alamoudi  
12 is represented as secretary, Laura Drake is listed as  
13 director, Yousef Mahmoud Saleh is listed as director, and  
14 Robert Crane is listed as director.

15 MR. JACKS: Would you go to the second page, please?

16 Q. (BY MR. JACKS) And this particular page can you just  
17 summarize what it shows?

18 A. It shows the change in the principal office address.

19 Q. And from where to where?

20 A. From 5424 North Sawyer, Chicago, Illinois, to 5524  
21 Hempstead Way, No. 300, Springfield, Virginia.

22 Q. If you would, just the remaining pages, can you just  
23 describe for us, please, what they represent or contain?

24 A. They contain more information about the principal  
25 officers and directors, and then the records from the State of

1 Illinois are also included.

2 Q. And do the records from the State of Illinois show the  
3 incorporators?

4 A. They do.

5 Q. What page of the exhibit is that, please?

6 A. It is page ten.

7 Q. Ten?

8 A. Yes.

9 MR. JACKS: Will you show that, please?

10 Q. (BY MR. JACKS) Is your copy legible?

11 A. Somewhat.

12 Q. All right. And who is shown in that section in the  
13 middle of the page that lists names and addresses? Can you  
14 tell us who those names are that appear there?

15 A. Yes. Under what I think is Article Three it says, "Board  
16 of directors shall be five," and then there is a list of five  
17 individuals. Mohammad Elherezi I believe is the first one.

18 Q. Okay. And where does it show that he lived at that time?

19 A. In a city in Illinois. I am not sure what city that is.

20 Q. Okay. The second name?

21 A. Fadel Lamen, L-A-M-E-N.

22 Q. Third name?

23 A. Mohamed Adlouni.

24 Q. Fourth name?

25 A. Mousa Abu Marzook.



1 Q. Where does it show -- what city and state does it show  
2 that he is a resident in?

3 A. Ruston, Louisiana.

4 Q. And who is Mousa Abu Marzook, based on your knowledge?

5 A. He is a specially designated terrorist, the Hamas deputy  
6 political bureau chief.

7 Q. The fifth name?

8 A. Rabil Sadun.

9 Q. Where does he supposedly live?

10 A. Tulsa, Oklahoma.

11 Q. Let me ask you, the pages following this exhibit, what do  
12 they contain?

13 A. They contain the names and addresses of the  
14 incorporators, I guess along with their signatures, and then  
15 the actual articles of incorporation.

16 Q. What page are the signatures of the incorporators on?

17 A. Page 11.

18 MR. JACKS: Go to page 11, please. And could you  
19 highlight the portion where the signatures are?

20 Q. (BY MR. JACKS) And is that the part you were referring  
21 to?

22 A. Yes.

23 Q. You said following that were the actual articles of  
24 incorporation?

25 A. Yes.

1 Q. How many pages comprise the articles of incorporation?

2 A. Two, pages 12 and 13.

3 Q. Is there a section in there that indicates the purpose of  
4 the organization?

5 A. There is.

6 Q. What page is that?

7 A. Page 12.

8 MR. JACKS: Go to that part, page 12.

9 Q. (BY MR. JACKS) And where were you referring to?

10 A. This appears to be a list of the items that -- its  
11 purpose, a list of them. There are more than one.

12 Q. Summarize those for us, please.

13 A. Section 1 is "Support relief programs. Corporation  
14 shall...support relief programs and funds for victims  
15 of...natural disasters" and other things.

16 Section 2 is "Establish development programs.  
17 Corporation shall establish agricultural and industrial  
18 development programs...in developing countries."

19 Section 3 --

20 MR. DRATEL: Objection to a document that can be  
21 read from or speaks for itself.

22 THE COURT: It does seem to me we are spending an  
23 undue amount of time on this, Mr. Jacks. Is there some  
24 particular purpose for this exercise?

25 MR. JACKS: Your Honor, at some point in time it

1 would have to be conveyed; either the jury would have to read  
2 it on their own. So that was just my purpose. But I will try  
3 to move along.

4 THE COURT: Let's try to move faster through this.

5 Q. (BY MR. JACKS) Agent Burns, did you seek to obtain  
6 information regarding a corporation called InfoCom?

7 A. Yes, I did.

8 Q. Do you have Government's Exhibit No. 11-42 in front of  
9 you?

10 A. Yes.

11 Q. How many pages does that exhibit consist of?

12 A. One.

13 Q. And where did it come from, that particular exhibit?

14 A. The State of California Secretary of State.

15 Q. What entity does it relate to or refer to?

16 A. International Computers and Communications, Incorporated.

17 Q. And who is the -- Is there an individual that is shown on  
18 those records?

19 A. Yes; Ghassan Elashi.

20 MR. JACKS: Judge, we move the admission of  
21 Government's Exhibit No. 11-42.

22 THE COURT: Any objection?

23 MS. HOLLANDER: No objection.

24 THE COURT: Government's Exhibit No. 11-42 is  
25 admitted.

1 Q. (BY MR. JACKS) Is the certification the only part of  
2 that exhibit?

3 A. No, I am sorry. It is two pages.

4 Q. Would you go to the second page, please? And if you  
5 would, just read what is shown there as far as the entity  
6 involved and who the persons are that are connected to that  
7 organization.

8 A. International Computers and Communications, Incorporated  
9 2265 Westwood Boulevard, Los Angeles, California. The names  
10 of the officers are Ghassan Elashi, Basman Elashi, and Ghassan  
11 Elashi again.

12 Q. And the last one is the directors. Is that correct?

13 A. That is correct. And those are Ghassan Elashi and Basman  
14 Elashi.

15 Q. And is it signed by anyone?

16 A. Ghassan Elashi.

17 Q. And is it dated as far as it is filed in the upper right  
18 hand corner?

19 A. October 8, 1987.

20 Q. Do you have an exhibit, Government's Exhibit No. 11-17?

21 A. Yes, I do.

22 Q. And how many pages is that exhibit, if you don't mind?

23 A. Two.

24 Q. The records in there, where do they come from?

25 A. From the Secretary of State for Texas.

1 Q. And relating to what entity?

2 A. InfoCom.

3 MR. JACKS: Judge, we move the admission of  
4 Government's Exhibit No. 11-17.

5 MR. CLINE: No objection.

6 THE COURT: Government's Exhibit No. 11-17 is  
7 admitted.

8 Q. (BY MR. JACKS) Is the first page a certification?

9 A. Yes, it is.

10 MR. JACKS: Would you go to page two, please?

11 Q. (BY MR. JACKS) And if you would, just -- When does it  
12 show to have been filed with the Secretary of State for Texas?

13 A. March 16th, 1992.

14 Q. And the entity is shown in paragraph one. Is that  
15 correct?

16 A. That is correct.

17 Q. The address?

18 A. It is 13931 North Central Expressway, Unit 318-411,  
19 Dallas, Texas.

20 Q. And who is shown to be the incorporator?

21 A. Bayan Elashi.

22 Q. Does it purport to show his signature?

23 A. Yes, it does.

24 Q. And the date that was executed?

25 A. March 12th, 1992.

1 Q. Is that the last page of that exhibit?

2 A. Yes, it is.

3 Q. Do you have 11-18 in front of you?

4 A. Yes, I do.

5 Q. How many pages is that exhibit?

6 A. Two.

7 Q. From what agency did it come from?

8 A. The Secretary of State for Texas.

9 Q. What entity does it relate to?

10 A. ICC Tec.

11 Q. And any names of individuals that are on there?

12 A. Ghassan Elashi.

13 MR. JACKS: Move the admission of Government's  
14 Exhibit No. 11-18, Your Honor.

15 MR. CLINE: No objection.

16 THE COURT: Government's Exhibit No. 11-18 is  
17 admitted.

18 Q. (BY MR. JACKS) Is the first page again a certification?

19 A. Yes, it is.

20 MR. JACKS: Would you show the second page, please?

21 Q. (BY MR. JACKS) And could you tell us when that document  
22 was filed where the Secretary of State for Texas?

23 A. April 17th, 1992.

24 Q. You said this was ICC Tec?

25 A. That is correct.

1 Q. And what address does it show for the business?

2 A. 13931 North Central Expressway, Unit 318-411, Dallas,  
3 Texas.

4 Q. Was that the same address that was for InfoCom?

5 A. That is correct.

6 Q. And the incorporator is shown to be Ghassan Elashi?

7 A. Yes.

8 Q. And does it purport to show his signature there?

9 A. Yes, it does.

10 Q. Do you have 11-34 in front of you?

11 A. Yes.

12 Q. What is -- How many pages does 11-34 consist of?

13 A. Eight.

14 Q. Where do those pages come from?

15 A. The Secretary of State for Mississippi.

16 Q. And what entity is referenced in the exhibit?

17 A. Al-Aqsa Education Fund.

18 Q. And any individuals' names that are shown there that we  
19 are going to see later?

20 A. Abdel Haleem Ashqar.

21 MR. JACKS: Judge, we move the admission of  
22 Government's Exhibit No. 11-34.

23 MR. CLINE: No objection.

24 THE COURT: Government's Exhibit No. 11-34 is  
25 admitted.

1 Q. (BY MR. JACKS) Is the first page a certification?

2 A. Yes, it is.

3 Q. Okay.

4 MR. JACKS: Could you show the second page?

5 Q. (BY MR. JACKS) Does that give the name of the entity and  
6 when this document was filed?

7 A. Yes, it does.

8 Q. What is the name and the date?

9 A. Al-Aqsa Educational Fund, Incorporated, and it was filed  
10 on January 26th, 1993.

11 Q. Go to the next page, please. And can you just summarize,  
12 if you would, what is shown on that particular page of this  
13 exhibit?

14 A. It lists the Al-Aqsa Education Fund, the Articles of  
15 Incorporation for that organization, its address in Oxford,  
16 Mississippi, and the name of the registered agent is Abdel  
17 Haleem Ashqar.

18 Q. And does it have his name there?

19 A. Yes.

20 Q. Now, you said you went to the University of Alabama?

21 A. Yes.

22 Q. Can you tell us what is at Oxford, Mississippi?

23 A. I believe it is the University of Mississippi.

24 Q. The next page refers to what?

25 A. I believe the next page is another certification.



1 Q. Regarding?

2 A. The Al-Aqsa Education Fund. Then behind it on page five  
3 there is an Articles of Amendment.

4 MR. JACKS: Would you go to that, please, page five?

5 Q. (BY MR. JACKS) And what does it -- Does it indicate what  
6 the amendment was?

7 A. I believe it was an amendment for the Al-Aqsa Education  
8 Fund, and it indicates that it was adopted by a board of  
9 directors and incorporators without member action, and member  
10 action was not required. I guess the actual amendment was  
11 attached.

12 Q. Okay. What was that? Is that the next page?

13 A. Yes. It is page six. The Articles of Incorporation were  
14 added to amend the following language.

15 Q. Is that regarding nonprofit status?

16 A. It is.

17 Q. Thank you, Agent Burns.

18 Let me just ask you some other questions regarding other  
19 items now.

20 You have talked about the search warrants that were  
21 conducted from which you and other agents working with you  
22 received evidence. Is that correct?

23 A. Yes.

24 Q. And you have talked about the InfoCom search warrant, the  
25 search warrant of the H.L.F. Offices, the residence of Ismail

1 Elbarasse, the residence of Fawaz Mushtaha, and was there also  
2 a subsequent acquisition of evidence regarding the residence  
3 of Fawaz Mushtaha that provided evidence that you utilized?

4 A. Yes. There was a consensual search that was conducted at  
5 that location in late 2006.

6 Q. And the party that gave consent was?

7 A. The current homeowner, Marcial Predeo.

8 Q. Let me ask you, in your investigation did you make effort  
9 to determine who -- what individuals may have had  
10 relationships with some of these different offices or entities  
11 that you have been talking about?

12 A. Yes, I did.

13 Q. Do you have Government's Exhibit No. 1-279 in front of  
14 you?

15 A. I don't believe I have a copy of that one, but I can view  
16 it on the screen:

17 MR. JACKS: Your Honor, may I display that to her  
18 and not the jury?

19 THE COURT: Okay.

20 Q. (BY MR. JACKS) Do you see the exhibit in front of you,  
21 Agent Burns?

22 A. Not yet.

23 THE COURT: I don't know how to display it to her,  
24 Mr. Jacks.

25 MR. JACKS: All right. May I have just a moment?

1 THE COURT: Yes, sir.

2 Q. (BY MR. JACKS) Do you have Government's Exhibit  
3 No. 11-38 in front of you?

4 A. Yes, I do.

5 Q. And is that -- How many pages is that exhibit, please?

6 A. Seven pages.

7 Q. And where did it come from?

8 A. The New Jersey Secretary of State.

9 Q. And what entity does it pertain to?

10 A. The H.L.F.

11 Q. How many pages is that exhibit?

12 A. Seven.

13 MR. JACKS: Your Honor, we would move the admission  
14 of Government's Exhibit No. 11-38.

15 MR. CLINE: No objection.

16 THE COURT: Government's Exhibit No. 11-38 is  
17 admitted.

18 MR. JACKS: And can you show that, please?

19 Q. (BY MR. JACKS) If you would, just tell us what is shown  
20 on the first page, the type of document and the information  
21 there.

22 A. It is an application for certificate of authority to  
23 operate in the state of New Jersey.

24 Q. For what entity?

25 A. For the Holy Land Foundation.

1 Q. And if you would just kind of briefly, the typed in or  
2 filled-in information, if you would just kind of go through  
3 that for us.

4 A. It indicates the name of the corporation is the Holy Land  
5 Foundation, that it was incorporated under the laws of  
6 California in January of 1989, and that the address in New  
7 Jersey is 1710 Firman Drive, Suite 100, that is in Richardson,  
8 Texas, and that the address in New Jersey would be 100  
9 Hamilton Plaza, Suite 1413, patterson, New Jersey, along with  
10 the registered agent Mohammad El-Mazain.

11 Q. And what date does that show to be filed with the New  
12 Jersey Secretary of State?

13 A. June 2nd, 1994.

14 MR. JACKS: Would you go to the next page, please?

15 Q. (BY MR. JACKS) And is this just the records from  
16 California that were filed with that application?

17 A. Yes.

18 Q. The remaining pages, is that part of the records from  
19 California?

20 A. I believe these are actually from the New Jersey office.

21 Q. Okay.

22 MR. JACKS: Would you go to the next page, please?

23 Q. (BY MR. JACKS) And just if you would, tell us what is  
24 referenced on that page?

25 A. It reflects Shukri A. Baker as secretary, Ghassan Elashi

1 as other, and Mohammad El-Mezain as other for officers and  
2 directors.

3 Q. And the address shown for the business under those names?

4 A. Those names, Shukri A. Baker, 525 International Parkway,  
5 Richardson, Texas, Ghassan Elashi, 525 International Parkway,  
6 Parkway Richardson, Texas, and Mohammad El-Mezain, 525  
7 International Parkway, Richardson, Texas.

8 Q. And what is shown on that page, please?

9 A. It is the registered agent as Mohammad El-Mazain, the  
10 address at 525 International Parkway at the Richardson, Texas  
11 address, and the principal business address is at 345 East  
12 Railway, Patterson, New Jersey.

13 MR. JACKS: The next page, please.

14 Q. (BY MR. JACKS) Just a recitation as far as the report  
15 date for this document is when?

16 A. November 10th, 2005.

17 Q. And is that when you received it, or shortly thereafter?

18 A. Yes.

19 MR. JACKS: The next page, please.

20 Q. (BY MR. JACKS) And that contains information regarding  
21 the registered agent for that company?

22 A. Yes.

23 Q. Mr. El-Mazain?

24 A. Yes.

25 Q. Do you have Government's Exhibit No. 1-59 in front of

1     you?

2     A.    Yes, I do.

3     Q.    How many pages is that exhibit, please?

4     A.    It is quite lengthy--121 pages.

5     Q.    And what -- Where did that document -- Where was it  
6     found?

7     A.    It was found in the H.L.F. New Jersey office.

8     Q.    And can you describe what it appears to be? Does it have  
9     a title?

10    A.    It is called "weekly report checklist."

11    Q.    Okay.

12    A.    It is a collection of those.

13                 MR. JACKS: Judge, we move the admission of  
14    Government's Exhibit No. 1-59.

15                 THE COURT: Any objection?

16                 MR. WESTFALL: No objection.

17                 THE COURT: Government's Exhibit No. 1-59 is  
18    admitted.

19                 MR. JACKS: Would you show page 4, please?

20    Q.    (BY MR. JACKS) Do you have page 4 in front of you, Agent  
21    Burns?

22    A.    Yes, I do.

23    Q.    Would you kind of summarize what it refers to?

24    A.    It relates also to page 5. I guess that is the front  
25    page of the weekly report checklist for Abdul Rahman Odeh for

1 the week of August 23rd to August 29th, 1997 and it lists a  
2 number of questions about his activities. And under No. 4 it  
3 includes things like marketing tickets for the annual dinner  
4 fund and donations for school bags and tickets.

5 MR. JACKS: Could you go to page 5, please?

6 Q. (BY MR. JACKS) Okay. Is this the page that you just  
7 referred to?

8 A. Yes.

9 Q. And you said it references Abdul Rahman Odeh. Is that  
10 correct?

11 A. That is correct.

12 MR. JACKS: Would you go to page 7, please?

13 Q. (BY MR. JACKS) And what is referenced on this particular  
14 page of this exhibit?

15 A. This is Mr. Odeh's report from the week of August 16th to  
16 August 27, 1997. It includes business he conducted over this  
17 week, including calling Mr. Bassam about tickets and  
18 letterhead, Mr. Haytham [sic] about late tickets and posters,  
19 and New York coin boxes and other items.

20 Q. What does it show under week overview item No. 2?

21 A. Total revenue generated for the week \$12,273.

22 Q. You mentioned an entry referring to a Mr. Haytham. Is  
23 there a Haitham a person with the name Haitham that you became  
24 to be aware of in this case?

25 A. Haitham Maghawri was employed by the H.L.F.

1 Q. What capacity?

2 A. As the executive director.

3 Q. Where was he located?

4 A. In Richardson, Texas.

5 MR. JACKS: Would you go to page 9, please?

6 Q. (BY MR. JACKS) And is this another weekly report for Mr.  
7 Odeh?

8 A. Yes, it is.

9 Q. For what week?

10 A. August 9th to August 15th, 1997.

11 Q. What does it show for revenue?

12 A. It shows \$19,036.

13 Q. And in terms of who he may have dealt with, under that  
14 middle part of the page there --

15 A. Under headquarters business it says, "How many times did  
16 you contact the headquarters office during a week? Five  
17 times." It lists four individuals with whom he spoke with at  
18 the headquarters--Mr. Bassam, Mr. Ibrahim, Mr. Haytham, and  
19 Mr. Yaeish about tickets, orphan sponsorships, coin boxes, and  
20 expenses.

21 MR. JACKS: Would you go to page 35, please?

22 Q. (BY MR. JACKS) And what does this report show?

23 A. Weekly report for Mr. Odeh from June 14th to June 20th,  
24 1997.

25 Q. The amount of revenue generated?



1 A. \$30,508.

2 Q. And headquarters business shown?

3 A. It shows he contacted headquarters four times during the  
4 week and spoke with Mr. Omar Saleem, Mr. Shukri about Jordan's  
5 office, and Mr. Haytham.

6 MR. JACKS: Go to page 43, please.

7 Q. (BY MR. JACKS) And this weekly report shows what?

8 A. It shows revenue generated for \$1,622. It shows that he  
9 called Mr. Shukri about his trip to Jordan, and Mr. Basim  
10 about his trip to Jordan and work in the office.

11 Q. This was for what time period?

12 A. May 21st through 23rd, 1997.

13 MR. JACKS: Page 67, please.

14 Q. (BY MR. JACKS) Could you tell us what is indicated or  
15 shown on this report?

16 A. This is a handwritten report from Mr. Odeh for the week  
17 of January 28th through 31st, 1997. It shows that the revenue  
18 generated for that week was \$5,732, and that his headquarters  
19 business included speaking with Mr. Shukri to inform him about  
20 his return from Jordan, and also shows him discussing other  
21 matters with other people from headquarters.

22 There is a note on the bottom that says, "Return from my  
23 business trip to Jordan on 1/28/1997." And it was duty trip  
24 to distribute food packages in Jordan.

25 MR. JACKS: Let's go to page 70, please.

1 Q. (BY MR. JACKS) And can you -- If you would, is there a  
2 page either before or after this one that goes with this  
3 particular page?

4 A. Yes. Page 69 is the front page for that particular week  
5 report.

6 MR. JACKS: Would you go to that, please?

7 Q. (BY MR. JACKS) And what time period does it cover?

8 A. January 11th through 15th, 1997.

9 Q. And as far as the amount of money generated?

10 A. \$15,752.

11 Q. Headquarters contact?

12 A. It shows there were three--Mr. Bassam, Shukri, and Mr.  
13 Samnah, and on page 70 it shows that he participated in  
14 fundraising with Sheik Kafamien for food parcels.

15 Q. And that is under Paragraph 4?

16 A. Yes, that is correct.

17 MR. JACKS: Page 102, if you don't mind.

18 Q. (BY MR. JACKS) What time period is covered by this  
19 report?

20 A. November 2nd through 8th November, 1996.

21 Q. And the amount of revenue generated?

22 A. \$6,338.

23 Q. And what does it show his activities were?

24 A. It shows under headquarters business contacts about the  
25 orphans of the Aqsa massacre about sponsors, the families of

1       Aqsa, and about something else that I can't read.

2               MR. JACKS:   Would you go to page 118, please?

3       Q.     (BY MR. JACKS)   What time period does that cover?

4       A.     August 10th through 16th, 1996.

5       Q.     And the revenue generated?

6       A.     \$431.

7       Q.     The headquarters activity or contact?

8       A.     I can't read No. 1, something about the orphans No. 2,  
9       about Mr. Hamza Mansour No. 3.

10      Q.     Do you have Government's Exhibit No. 1-60 in front of  
11     you?

12      A.     I think that is in the next section.

13               MR. JACKS:   May I approach, Your Honor?

14               THE COURT:   Yes, sir.

15               THE WITNESS:   I don't know if it is going to be in  
16     here or not.

17      Q.     (BY MR. JACKS)   How about 1-98?   Is that in that binder?

18      A.     I don't think so.   I think we are missing a section of  
19     binder.

20      Q.     All right.   What is the first exhibit that you have there  
21     in the second binder I just gave you?

22      A.     I actually have 1-363.

23      Q.     Let me move to something else, if I could, just for a  
24     moment, Agent Burns.   In the course of conducting your  
25     investigation, did you ever -- You said that you had met I

1     suppose each of the Defendants at some time prior to this  
2     trial. Is that right?

3     A.     That is correct.

4     Q.     Let me ask you specifically regarding the Defendant Mufid  
5     Abdulqader. Did you ever have a chance to sit down and  
6     interview him?

7     A.     Yes, I did.

8     Q.     And about when was that interview?

9     A.     April 5th, 2002, I believe.

10           MS. CADEDDU: Your Honor, I am going to object to  
11     this on the grounds that were set forth orally in the previous  
12     hearing that we had.

13           THE COURT: Can you be more specific about which  
14     hearing?

15           MS. CADEDDU: Yes, Your Honor. The *Kastigar*  
16     hearing. At the end of that there was some testimony  
17     presented.

18           THE COURT: Very well. I understand your objection.  
19     Overruled.

20     Q.     (BY MR. JACKS) I am sorry. Would you tell us the date  
21     of that interview again?

22     A.     I believe it was April 5th, 2002.

23     Q.     And was anybody with you when you conducted that  
24     interview?

25     A.     Yes. Special Agent Robert Miranda and Special Agent Jim

1 Lewis.

2 Q. Where was that interview conducted or held?

3 A. At the office of Mr. Abdulqader's attorney.

4 Q. And let me ask you if in the course of that interview did  
5 you ask Mr. Abdulqader about his relationship or connection to  
6 the Holy Land Foundation?

7 A. Yes.

8 Q. Did you ever ask him regarding how long that relationship  
9 existed or how long he had known those individuals?

10 A. He did not state exactly when he began working with them,  
11 but stated that he did not know anyone from if H.L.F. except  
12 for his cousin before 1995 when he moved to Dallas.

13 Q. Now, where did he say he lived before he came to Dallas?

14 A. In Oklahoma.

15 Q. You said that he told you he moved to Dallas in 1995?

16 A. Yes.

17 Q. You made reference to his cousin or he had mentioned his  
18 cousin during that interview. Who was we referring to?

19 A. An individual Akram Mishal who was an employee with the  
20 Holy Land Foundation.

21 Q. Can you spell his name, please?

22 A. Akram, A-K-R-A-M, last name Mishal, M-I-S-H-A-L.

23 Q. And is that the only person that Mr. Abdulqader said he  
24 knew at the Holy Land Foundation?

25 A. He said prior to 1995 that was the only individual he

1 knew at the Holy Land Foundation.

2 Q. So anybody else, he met them '95 or after?

3 A. That is what he said.

4 Q. Did you ever come across any records to contradict that?

5 A. Yes, I did.

6 Q. Do you have Government's Exhibit No. 1-21 in front of  
7 you?

8 A. Yes, I do.

9 Q. How many pages is Government's Exhibit No. 1-21?

10 A. Two pages.

11 Q. Where did it come from, that particular exhibit?

12 A. This was seized from the H.L.F.'s Dallas office.

13 MR. JACKS: Judge, we move the admission of  
14 Government's Exhibit No. 1-21.

15 THE COURT: Any objection?

16 Government's Exhibit No. 1-21 is admitted.

17 MR. JACKS: Would you show the first page, please?

18 Q. (BY MR. JACKS) Now, if you would, just tell us what is  
19 shown on Government's Exhibit No. 1-21, this first page?

20 A. The first page is a listing of overseas speakers.

21 Q. Okay. And do you recognize any of the names shown on  
22 this page?

23 A. Yes, I do.

24 Q. Which ones do you recognize?

25 A. Foud Abu Zeid, Hatem Qafisha, Aziz Dweik, Hafeth Natsheh,

1 Majdi Agel, Hussein Abu Kweik.

2 Q. All right. What is after Abu Kweik?

3 A. Doctor Zeid.

4 Q. What about the next to the last one?

5 A. Khaled Abdelqader.

6 Q. The column in the middle of the page, are those phone  
7 numbers?

8 A. They are.

9 Q. Do you recognize to what part of the world they go to?

10 A. Jordan. Excuse me. 972 is actually Palestinian  
11 Territories for Israel.

12 Q. Let me ask you, in the course -- How long have you worked  
13 on this case, you said?

14 A. Quite a long time.

15 Q. All right. In the course of working on this case, have  
16 you come to know and recognize like country codes, telephone  
17 country codes and area codes and that type of thing?

18 A. Yes.

19 Q. Now, Khaled Abdelqader, does he have another name?

20 A. I believe he was affiliated with Zacabani.

21 MR. DRATEL: Object as to the basis "I believe."

22 THE COURT: Sustained.

23 MR. JACKS: Would you go to the next page, please?

24 Q. (BY MR. JACKS) And this page is entitled what?

25 A. "Local speakers."

1 Q. And just if you would just make reference to or tell us  
2 is this one of the documents that you located that made  
3 reference to the Defendant Mufid Abdulqader?

4 A. Yes, he is.

5 Q. Where is he shown in that exhibit?

6 A. He is shown about halfway down.

7 Q. And does it have a home and work telephone number?

8 A. Yes, it does. Home number is 972-705-9235, and  
9 214-948-4677.

10 Q. And this document you said was recovered from the H.L.F.  
11 offices. Is that correct?

12 A. That is correct.

13 Q. Do you have Government's Exhibit No. 1-72 in front of  
14 you?

15 A. I have 1-22.

16 MR. JACKS: May I approach the witness?

17 THE COURT: Yes.

18 Q. (BY MR. JACKS) Do you have Government's Exhibit  
19 No. 5-28?

20 A. Yes, I do.

21 Q. Government's Exhibit No. 5 -- Just generically what is  
22 it?

23 A. It is an American Express bill.

24 Q. And were those obtained from American Express?

25 A. Yes, they were.



1 Q. Pertaining to what entity?

2 MS. HOLLANDER: I am sorry. I just didn't hear what  
3 the exhibit number is.

4 THE COURT: No. 5-28.

5 MS. HOLLANDER: Thank you.

6 MR. JACKS: Sorry.

7 Q. (BY MR. JACKS) Were those from American Express?

8 A. Yes, they were.

9 Q. Okay. I am sorry. Who is the cardholder?

10 A. Shokri Abu Baker, Occupied Land Fund.

11 MR. JACKS: Judge, we move the admission of  
12 Government's Exhibit No. 5-28.

13 THE COURT: Any objection?

14 MS. HOLLANDER: No objection.

15 THE COURT: Government's Exhibit No. 5-28 is  
16 admitted.

17 MR. JACKS: Could you show the first page, if you  
18 would, please?

19 Q. (BY MR. JACKS) And if you would, just refer us to how  
20 you interpreted this document. Not interpreted, but the part  
21 you looked at and utilized.

22 A. The statement closing date for this particular American  
23 Express bill was November 16th, 1990. Again, this was for  
24 Shokri Abu Baker and the Occupied Land Fund. On page three of  
25 the exhibit there is a -- I guess the way American Express

1 organizes its bills, there is a charge for an airline ticket  
2 through ABA Travel, transaction date October 5th, 1990 for M.  
3 Abdulqader.

4 Q. Are you looking at the top part of the statement or the  
5 individual smaller parts?

6 A. The first smaller box on the left.

7 Q. Is that what is shown on the screen?

8 A. Yes.

9 Q. Okay. Kind of summarize or tell us what it references  
10 there.

11 A. It references an American Airlines ticket purchased for  
12 M. Abdulqader from Oklahoma City to Chicago to Boston to  
13 Dallas and back to Oklahoma City on October 5th, 1990.

14 Q. Okay.

15 A. It also references travel for other individuals to Boston  
16 for tickets purchased around that same time period that were  
17 also members of a band.

18 Q. All right. Well, specifically which charges are you  
19 making reference to?

20 A. If you will look at the box directly below that one there  
21 is an M. Taleb.

22 Q. Do you know a person in this investigation with the first  
23 name initial that begins with M. and last name Taleb,  
24 T-A-L-E-B?

25 A. Yes, Monzer Taleb is a member of the band.

1 Q. Does that time frame correspond to the charge above for  
2 Mr. Abdulqader?

3 A. Yes, it does. It shows the transaction date. It does  
4 not show the date of actual travel, so these tickets were  
5 purchased within three days of each other to the same  
6 location.

7 Q. Okay. Any other items in this statement or in this  
8 exhibit that make reference to the Defendant Abdulqader?

9 A. Yes. On page four, the third box down in the left  
10 column, shows that on October 25th, 1990 the Occupied Land  
11 Fund was charged for one standard letter for ABA travel for  
12 Mr. M. Abdulqader.

13 Q. Any other references to --

14 A. Yes.

15 Q. Go ahead.

16 A. On page five in the right hand column, the first box,  
17 there is another standard letter charged to the Occupied Land  
18 Fund from October 17th, 1990 to Mr. Mufid Abdulqader, and  
19 below that the next three boxes show M. Abdulqader, M. Taleb,  
20 and M. El-Mazain had tickets purchased by the Occupied Land  
21 Fund for travel to Phoenix.

22 Q. All right. Those are the three that have just scrolled  
23 across the screen. Is that correct?

24 A. That is correct.

25 Q. Now, when did he tell you that he first began to work

1 with them?

2 A. After he moved to Dallas in 1995.

3 Q. Did you -- In your interview with him in April of 2002,  
4 did you ask him what he did for the Holy Land Foundation?

5 A. He said that he was a volunteer and that he raised funds  
6 on occasion for the Holy Land Foundation.

7 Q. I am sorry. I heard you said he was a volunteer. And  
8 then the next thing that you said?

9 A. He raised money for them on occasion.

10 Q. On occasion? Okay.

11 A. He couldn't recall how many times he had done it.

12 Q. Do you have Government's Exhibit No. 1-18 in front of  
13 you?

14 A. Yes, I do.

15 Q. Where did that exhibit come from?

16 A. This was seized from the Holy Land Foundation's office in  
17 Dallas.

18 Q. And just tell me if -- that particular exhibit is how  
19 many pages?

20 A. One.

21 Q. And can you describe it?

22 A. Yes. This is an invoice from Al-Nujoom Band to the Holy  
23 Land Foundation.

24 MR. JACKS: Judge, we move the admission of  
25 Government's Exhibit No. 1-18.

1 MS. CADEDDU: No objection.

2 THE COURT: Government's Exhibit No. 1-18 is  
3 admitted.

4 MR. JACKS: Would you show that, please?

5 Q. (BY MR. JACKS) And would you describe what is shown on  
6 that particular exhibit?

7 A. This is an invoice dated September 1st, 1998 for  
8 Al-Nujoom, which is the band Mr. Abdulqader, Monzer Taleb,  
9 Kifah Mustapha, Mufid Abdulqader, and Sabri Sabri were part  
10 of, and it shows their charges.

11 MR. JACKS: Can you enlarged the part in the box  
12 where it says quantity description? Yes. Thank you.

13 Q. (BY MR. JACKS) And now if you can give us some of the  
14 details as far as what it refers to?

15 A. It says performing in Charlotte September 19th, 1998, and  
16 by each individual's name it shows Charlotte -- by Monzur  
17 Taleb, Charlotte plus Tampa; for Kifah Mustapha, Charlotte  
18 plus Tampa; for Mufid Abdulqader it has Charlotte; and Sabri  
19 Sabri, Charlotte; and has a series of numbers and then the  
20 word "ticket."

21 Q. Now, this invoice was found in the records of the Holy  
22 Land Foundation?

23 A. That is correct.

24 Q. Do you have Government's Exhibit No. 1-43?

25 A. Yes, I do.

1 Q. What is that exhibit? Where did it come from?

2 A. It came from the H.L.F.'s Dallas office.

3 Q. How many pages is that particular exhibit?

4 A. Two.

5 MR. JACKS: Judge, we move the admission of 1-43.

6 MS. CADEDDU: No objection.

7 THE COURT: Government's Exhibit No. 1-43 is  
8 admitted.

9 MR. JACKS: Could you display that, please?

10 Q. (BY MR. JACKS) And just if you would, tell us what this  
11 exhibit references.

12 A. This is a travel itinerary from Travel Monitors of  
13 America dated December 28th, 1998 to Brother Akram at H.L.F.  
14 For Mufid Abdulqader, and shows a flight itinerary on American  
15 Airlines from Dallas to Houston and Little Rock and I believe  
16 back to Dallas.

17 Q. And I am sorry. The date?

18 A. The date of the itinerary was December 28th, 1998. The  
19 date of travel was January 1st, 1999.

20 Q. Do you have Government's Exhibit No. -- Is there another  
21 page to that?

22 A. Yes, there is a second page.

23 MR. JACKS: Okay. Would you show that, please?

24 Q. (BY MR. JACKS) Now, this document, can you tell whether  
25 it was mailed or faxed?

1 A. It appears to be faxed.

2 Q. And the number -- this travel agency is located where?

3 A. At 13610 Midway Road, Suite 240, Dallas, Texas.

4 Q. And does it show who this was addressed to?

5 A. To Akram at the H.L.F.

6 Q. And who is it for?

7 A. Mufid Abdulqader.

8 Q. Do you have Government's Exhibit No. 1-44 in front of  
9 you?

10 A. Yes, I do.

11 Q. And was this a document seized in the search warrant of  
12 H.L.F.

13 A. Yes, it was.

14 Q. How many pages is it?

15 A. One.

16 MR. JACKS: Move the admission of Government's  
17 Exhibit No. 1-44, Your Honor.

18 MS. CADEDDU: No objection.

19 THE COURT: Government's Exhibit No. 1-44 is  
20 admitted.

21 MR. JACKS: If you could display that, please.

22 Q. (BY MR. JACKS) And if you would just describe this  
23 exhibit for us, Agent Burns.

24 A. This is also a travel itinerary from DTA Tours & Travel  
25 to 525 International Parkway, Richardson, Texas, for Mufid

1 Abdulqader dated December 21st, 1999 for travel from Dallas to  
2 El Paso to Oklahoma City back to Dallas.

3 Q. Do you have -- I may have asked you. Do you have  
4 Government's Exhibit No. 1-19?

5 A. Yes, I do.

6 Q. Okay. And is that an exhibit that was obtained in the  
7 search of the Holy Land Foundation offices?

8 A. Yes.

9 Q. How many pages is it?

10 A. One.

11 MR. JACKS: Move the admission of Government's  
12 Exhibit No. 1-19.

13 MS. CADEDDU: No objection.

14 THE COURT: Government's Exhibit No. 1-19 is  
15 admitted.

16 MR. JACKS: Would you display that, please?

17 Q. (BY MR. JACKS) And would you describe, please, what is  
18 shown in Government's Exhibit No. 1-19?

19 A. This is a Holy Land Foundation or Holy Land Foundation  
20 check, or I guess the stub on the check showing payments to  
21 Mufid Abdulqader for services provided during Eid Al for  
22 \$1,000.

23 Q. Now, what did he tell you regarding whether he was an  
24 employee or paid for his work for the Holy Land Foundation?

25 A. He said he was -- He said that he never received



1 compensation but that he received expenses for travel.

2 Q. Now, is there anything on here that indicates this is for  
3 expenses?

4 A. No. It says "services."

5 Q. And did you say that he also told you he was a volunteer?

6 A. Yes.

7 Q. Do you have Government's Exhibit--let me just do  
8 this--1-20, 21, 22, and 23 in front of you?

9 A. Yes.

10 Q. Are those also records that were taken in the Holy Land  
11 search?

12 A. Yes, they are.

13 MR. JACKS: Judge, I move the admission of  
14 Government's Exhibit No. 1-20, 21, 22, and 23.

15 MS. CADEDDU: No objection.

16 MR. JACKS: And No. 21 may have already been  
17 admitted.

18 THE COURT: I think 1-21 is already admitted.  
19 Government's Exhibit No. 1-20, 1-22, and 1-23 are admitted.

20 Q. (BY MR. JACKS) Let me direct your attention to 1-20,  
21 Agent Burns, if you will.

22 MR. JACKS: Could you display that, please?

23 Q. (BY MR. JACKS) Now, what does this show?

24 A. This shows that Mufid Abdulqader received \$273.66 for  
25 fundraising expenses from the Holy Land Foundation April 20th,

1 2000.

2 Q. And I believe the earlier exhibit, 1-19, was April 27th.  
3 Is that correct?

4 A. Yes, that is correct.

5 MR. JACKS: And if you would, show 1-21 again, the  
6 second page, please.

7 Q. (BY MR. JACKS) And that is the exhibit you testified  
8 about a moment ago regarding the local speakers. Is that  
9 correct?

10 A. Yes.

11 MR. JACKS: 1-22, please, if you would show that.

12 Q. (BY MR. JACKS) Describe what is shown in Government's  
13 Exhibit No. 1-22.

14 A. This is actually a canceled check from the Holy Land  
15 Foundation to Mufid Abdulqader dated January 4th, 2000 for  
16 \$1,000 and it is endorsed by him on the back.

17 Q. Who signed it as the representative for the check? Who  
18 signed the check for Holy Land?

19 A. Shukri Abu-Baker.

20 Q. And that is the endorsement you referred to on the right  
21 hand side?

22 A. Yes, that is correct.

23 MR. JACKS: Could you show 1-23, please?

24 Q. (BY MR. JACKS) And again describe what is shown in this  
25 exhibit, please.

1     A.     This appears to be actually the check that corresponds to  
2     the check stub we were looking at from the Holy Land  
3     Foundation to Mufid Abdulqader April 27th, 2000 for \$1,000.  
4     And it is endorsed on the back.

5             MR. JACKS:   Show the second page, if you would,  
6     please.

7     Q.     (BY MR. JACKS)   And that is the endorsement you made  
8     reference to?

9     A.     That is correct.

10            THE COURT:   Mr. Jacks, let's take our mid-afternoon  
11     recess at this time.

12            Ladies and gentlemen, we will be in recess until 3:20.

13                           (Brief Recess.)

14            THE COURT:   Go ahead, Mr. Jacks, when you are ready.

15            MR. JACKS:   Thank you, Your Honor.

16     Q.     (BY MR. JACKS)   Agent Burns, you have testified just  
17     before the break regarding Government's Exhibit No. 1-19, 20,  
18     22, 23, those being checks written to Mufid Abdulqader. Those  
19     exhibits, are those all of the checks that you found in your  
20     examination of the Holy Land Foundation records written to  
21     Mufid Abdulqader? Were all of them in those exhibits?

22     A.     No, there were more.

23     Q.     All right. Is that a representative sample of what was  
24     introduced of those checks?

25     A.     Yes.

1 Q. Do you have Government's Exhibit No. 1-363 in front of  
2 you?

3 A. I think it may be in the binder on the table there.

4 Q. I am sorry. This binder?

5 A. I believe so.

6 Q. That is all right. We will go to something else.

7 A. I found it. I am sorry. Too many tabs in this binder.

8 Q. I am sorry. Do you have it?

9 A. Yes, I do.

10 Q. Would you tell us how many pages that exhibit is?

11 A. Two.

12 Q. And where -- That particular exhibit, where did it come  
13 from?

14 A. It came from the H.L.F. Dallas office.

15 Q. And just --

16 MR. JACKS: Judge, move the admission of  
17 Government's Exhibit No. 1-363.

18 MS. HOLLANDER: I don't seem to have No. 1-363,  
19 unless it is one that we just received today, in which case we  
20 just got the disks a little while ago.

21 MR. JACKS: I will move on to something else, Your  
22 Honor. I apologize.

23 Q. (BY MR. JACKS) I am sorry, Agent Burns. How about  
24 No. 1-60.

25 A. I think there is a copy in the original. I don't have

1 one of those in my binder.

2 Q. I am sorry.

3 MR. JACKS: May I approach the witness, Your Honor?

4 THE COURT: Yes, sir.

5 Q. (BY MR. JACKS) I am going to hand you four hanging file  
6 folders, and is one of those labeled 1-60?

7 A. Yes, it is.

8 Q. And is that a document that came from the H.L.F. search?

9 A. Yes, it is.

10 Q. Would that be true of 1-98 and 1-57, and 1-58?

11 A. Yes.

12 Q. Is that the four hanging file folders that I just gave to  
13 you?

14 A. Yes.

15 Q. And again, all of those items came from the H.L.F.  
16 search?

17 A. Yes. That is correct.

18 MR. JACKS: Judge, move the admission of  
19 Government's Exhibit No. 1-57, 58, 60, and 98.

20 MS. HOLLANDER: Your Honor, I am sorry. We need  
21 just a minute to find those because we didn't know ahead of  
22 time which ones we were going to have to look at. We need  
23 just a minute to look at them.

24 THE COURT: Go ahead.

25 MS. HOLLANDER: Thank you, Your Honor.

1           We don't have any objection.

2           THE COURT: Government's Exhibit No. 1-57, 1-58,  
3 1-60, 1-98 are admitted.

4 Q.    (BY MR. JACKS) If I could take them in numerical order.  
5 No. 1-57 is what?

6           MR. JACKS: And if you could show that, please.

7           THE WITNESS: This is a letter of employment.

8 Q.    (BY MR. JACKS) From whom to whom?

9 A.    From the Holy Land Foundation to Mohammad El-Mazain.

10 Q.   Dated?

11 A.   October 28, 1999.

12 Q.   And just if you could describe what that exhibit  
13 references.

14 A.   This is a letter to Mohammad El-Mazain from Shukri  
15 Abu-Baker, employment with the Holy Land Foundation for  
16 \$90,000 beginning October 15th, 1999.

17 Q.   And what position does it say he is going to be holding?  
18 I think it is in that first paragraph.

19 A.   The director of endowment.

20 Q.   Would you look at Government's Exhibit No. 1-58, please?  
21 And just if you would, what is this exhibit?

22 A.   This is a letter from Mohammad El-Mazain to the Holy Land  
23 Foundation. It is regarding his resignation as chairman of  
24 the board. He states in the letter that it was his pleasure  
25 to serve as the chairman of the board for the Holy Land

1 Foundation for the past 11 years. And the letter is dated  
2 April 4th, 1999.

3 Q. Now, actually -- so this letter predates the one you just  
4 showed as far as No. 57 where he was employed as the director  
5 of endowment?

6 A. Correct.

7 Q. And would you go to Government's Exhibit No. 1-60?

8 MR. JACKS: If you could display that, please?

9 Q. (BY MR. JACKS) And again, is this another series of  
10 these weekly reports for Abdul Rahman Odeh?

11 A. Yes.

12 Q. And how many pages is that exhibit?

13 A. Twenty pages.

14 Q. And are the pages essentially similar in nature to this  
15 first page?

16 A. Yes, they are.

17 Q. Okay. And if you would, go to Government's Exhibit  
18 No. 1-98, which was just admitted. Do you have that?

19 A. I do.

20 MR. JACKS: Could you display that, please?

21 Q. (BY MR. JACKS) No. 1-98 consists of what, Agent Burns?

22 A. This is a copy of an American Express bill found at the  
23 Holy Land Foundation's office for Shukri Abu-Baker.

24 Q. He is the cardholder?

25 A. That is correct.

1 Q. And what charges are shown on this record?

2 A. There are a number of charges, but specifically on the  
3 bottom right of page 1 there is a receipt for travel for A.  
4 Odeh, November of 2000 from Newark to Dallas to Atlanta and  
5 back to Newark.

6 Q. And you may have said it, but the date?

7 A. The transaction date, the date the ticket was purchased  
8 was November 13th, 2000.

9 Q. All right.

10 A. The second page of the exhibit --

11 Q. Yes, go ahead, please.

12 A. Is another receipt for travel of A. Odeh from Newark to  
13 Dallas and this time the transaction date was October 5th,  
14 1995.

15 Q. Any other entries in there that pertain to Mr. Odeh?

16 A. Yes. Page 3 --

17 MR. JACKS: If you would show that.

18 THE WITNESS: The second box on the right hand side  
19 shows travel for A. Odeh from Newark to Houston to Dallas and  
20 the transaction date of that purchase was March 12th, 1996.

21 Q. Any other transactions pertaining to Mr. Odeh?

22 A. Yes. On the next page the upper left corner shows travel  
23 from A. Odeh from Newark to Dallas transaction date June 4th,  
24 1996.

25 Q. Any other transactions related to Mr. Odeh in that



1 exhibit?

2 A. On page 5 the second box on the left column shows travel  
3 of A. Odeh from Newark to Dallas The transaction date was May  
4 18th, 1994.

5 Q. How about others?

6 A. On the following page, again the second box in the left  
7 hand column, shows travel for Mr. Odeh from Newark to Dallas  
8 and the transaction date of that one was November 7th, 1994.

9 Q. Any others in there relating to Mr. Odeh?

10 A. Also on that same page, receipts for travel of Mr.  
11 El-Mazain are also included.

12 On the following page, page 7, there is a receipt for  
13 travel for Mr. Odeh from Newark to Dallas again. Transaction  
14 date was December 4th, 1994.

15 Q. Any others?

16 A. Page 8, travel itinerary from Apollo International for  
17 travel of Abdelman Odeh from June 4th, 1996 from Newark again  
18 to Dallas.

19 Behind that are three additional travel itineraries for  
20 Mr. Abdelman.

21 Q. If you would just tell us the dates?

22 A. Okay. September 30th 1996 from Newark again to Dallas,  
23 January 22nd, 1999 to Dallas, March 13th, 1996 to Dallas.

24 Q. Thank you. Let me ask you a question. I want to direct  
25 your attention back to your interview with Mufid Abdulqader in

1 April of 2002. Did you ever ask him anything about the  
2 collection of money or handling of money?

3 A. Yes, I did.

4 Q. Specifically what did you ask him about that? I am  
5 talking about with regards or in connection with the Holy Land  
6 Foundation.

7 A. I asked him how much money he raised when he would attend  
8 the event for the Holy Land Foundation. He told me that he  
9 did not know how much money he raised because he never handled  
10 the money.

11 Q. Let me direct your attention to Government's Exhibit  
12 No. 18-5. Do you have that exhibit in front of you?

13 A. I believe they used my copy to make another copy.

14 Q. Oh, I am sorry. All right.

15 MR. JACKS: May I approach, Your Honor?

16 THE COURT: Yes, sir.

17 Q. (BY MR. JACKS) Do you have Government's Exhibit No. 18-5  
18 in front of you?

19 A. Yes, I do.

20 Q. And is that a transcript of a telephone conversation?

21 A. Yes, it is.

22 Q. And was this a conversation that was intercepted pursuant  
23 to a court-authorized wire interception order?

24 A. Yes.

25 Q. The exhibit that you have in front of you, is that an

1 English language transcript of that conversation?

2 A. Yes, it is.

3 Q. Was the conversation, based on your investigation, in  
4 Arabic and then translated into English?

5 A. Yes.

6 Q. How long is that transcript that you have in front of  
7 you?

8 A. Twelve pages.

9 MR. JACKS: Your Honor, at this time we would move  
10 the admission of Government's Exhibit No. 18-5, which is the  
11 conversation. And we propose to -- Rather than playing the  
12 conversation at this time, we propose that Agent Burns and  
13 myself read the translation.

14 THE COURT: Ms. Cadeddu?

15 MS. CADEDDU: I would like to just renew the  
16 pretrial objections made to the evidence obtained from FISA,  
17 Your Honor.

18 THE COURT: I will overrule that objection and admit  
19 into evidence Government's Exhibit No. 18-5.

20 Let me just ask for clarification. No. 18-5 is the  
21 English language transcript of that conversation. Is that  
22 right?

23 MR. JACKS: Yes, Your Honor. And let me --  
24 No. 18-6--is that right--is the conversation itself. So we  
25 would move the admission of No. 18-6, Your Honor, as well as

1 18-5. No. 18-5 is the transcript. No. 18-6 is the electronic  
2 audio conversation.

3 MS. CADEDDU: With the same objection, Your Honor.

4 THE COURT: I will overrule the objection and admit  
5 into evidence Government's Exhibit No. 18-6.

6 Q. (BY MR. JACKS) Agent Burns, Government's Exhibit No.  
7 18-5, does it make reference or indicate the date and time the  
8 conversation was recorded?

9 A. January 2nd, 2000.

10 Q. And the time?

11 A. 22:54:14. It is on the 24-hour clock.

12 Q. It is military time?

13 A. Military time.

14 Q. So that would be 10:00, almost 11:00 at night?

15 A. Right.

16 Q. All right. And as far as the participants in the  
17 conversation, are they shown?

18 A. They are. Initially an unidentified female answered the  
19 phone. The ultimate participants in the call were Mufid  
20 Abdulqader, Ibrahim Khalil, K-H-A-L-I-L, and Moataz,  
21 M-O-A-T-A-Z.

22 Q. And last name was unknown for this Moataz?

23 A. That is correct.

24 Q. If you would, go to the second page of that transcript.  
25 And I am going to ask, would you please read the part, the

1        comments by Mufid Abdulqader, and I will read the parts of the  
2        other participants. Is that clear?

3        A.     Yes. Are we going to begin after the prompt for the Holy  
4        Land Foundation reading?

5        Q.     Yes. Just if you would, describe for us, if you will,  
6        what you are referring to when you say the prompt for the Holy  
7        Land Foundation.

8        A.     There was a call that was placed to the Holy Land  
9        Foundation. At the time that the phone was answered there was  
10       a prompt that says, "Thank you for calling the Holy Land  
11       Foundation. If you know your party's extension, please enter  
12       it." And numbers are dialed, and there was a prompt, and then  
13       an unidentified female answers the call, and Mufid Abdulqader  
14       greets that person and asks to speak with Ibrahim. On page 3  
15       of that transcript, ultimately Mufid and Ibrahim begin talking  
16       on page 3.

17       Q.     All right. And that would be about a third of the way  
18       down the page. Is that correct?

19       A.     That is correct.

20               MR. JACKS: Can you show page 3 of that transcript?

21       Q.     "Hello!"?

22       A.     "Peace be upon you."

23       Q.     "And peace be upon you."

24       A.     "Who is talking?"

25       Q.     "Ibrahim."

1 A. "How are you?"

2 Q. "Your dear one. Where are you, man?"

3 A. "What do you mean, where am I?"

4 Q. "No word, no news, and I don't know what went on with you  
5 or ..."

6 A. "By God, you know me, I do not tell. I stopped telling."

7 Q. "Why?"

8 A. "It is better this way."

9 Q. "Why?"

10 A. "It is more convenient."

11 Q. "But let me know what happened to you, I mean."

12 A. "Nothing new..."

13 Q. "I did not know how to call you, and I do not know where  
14 you are and..."

15 A. "Fine, haven't you reached me now?"

16 Q. "What?"

17 A. "You have reached us, and we have reached you."

18 Q. "Yes. What are your news?"

19 A. "By God, thank God."

20 Q. "How are you?"

21 A. "Very well, by God."

22 Q. "Uh, we heard good news about you."

23 A. "What?"

24 Q. "We heard good news about you in Windsor."

25 A. "Who told you?"

1 Q. "Nothing...a female called me..."

2 A. "Yes."

3 Q. "She donated."

4 A. "She called you?"

5 Q. "And she donated."

6 A. "Yes..."

7 Q. "I think that she is a Pakistani."

8 A. "Yes."

9 Q. "Yes."

10 A. "What did she tell you?"

11 Q. "She said, 'By God, I just heard a sermon and I was very  
12 impressed and I would like to donate.'"

13 A. "How much did she donate?"

14 Q. "What do you think?"

15 A. "At least one thousand."

16 Q. "Eh...no."

17 A. "Well, sir. How much did she donate?"

18 Q. "Five thousand dollars."

19 A. "Uh! This is excellent, by God. Five thousand and I  
20 brought you twenty-five thousand."

21 Q. "From Windsor?! Twenty-five thousand from Windsor?! In  
22 God's name, are you serious. Twenty-five thousand from  
23 Windsor?"

24 A. "Or what? Do I have...you know me, I mean, am I the  
25 joking type?"

1 Q. "Thank God, thank God, our Sheik, God willing." Hold on  
2 with me, please...Mufid, hold on with me a little bit please."

3 A. "My child," and the next part was a recording from being  
4 on hold.

5 Q. "Are you serious Mufid?"

6 A. "Just a moment, just a moment, Ibrahim."

7 Q. "Yes, my dear Haitham."

8 A. "Just a moment, my brother!"

9 Q. "Yes, my brother!"

10 A. I brought you with me..."

11 Q. "Yes."

12 A. "...seventeen thousands from Windsor. These are cash by  
13 hand."

14 Q. "Cash by hand, seventeen thousand."

15 A. "Someone donated five thousands, which he will mail, by  
16 mail or I don't know, he's gonna call or whatever, I mean,  
17 he's gonna do something."

18 Q. "Meaning...OK."

19 A. "...and I have four persons..."

20 Q. "Um..."

21 A. "...each one of them will donate four thousands, I mean a  
22 thousand, a thousand..."

23 Q. "Fine..."

24 A. "...all of them will mail them..."

25 Q. "Um."



1 A. "...and there is also a few...you may say four or five of  
2 them five hundred dollars."

3 Q. "Okay?"

4 A. "Maybe more, I mean more than that, this, you may say is  
5 estimation, but what I have, which I brought for you is  
6 seventeen thousand."

7 Q. "And the five thousand makes it twenty-two thousands."

8 A. "And five thousand...it goes up, I mean, it reaches  
9 thirty..."

10 Q. "Yes."

11 A. "If you want to take the woman into consideration, I  
12 mean, with the impact of the sermon...did she tell you that  
13 she was impressed?"

14 Q. "Yeah?"

15 A. "Did she tell you that she was impressed?"

16 Q. "Yes, she told me, 'I just heard your sermon in the  
17 mosque, thank God, and...I took your pledge form and I am  
18 calling because I want to donate.' She donated five thousand  
19 dollars."

20 A. "Praised be God. Excellent, by God. And by the  
21 way...Sarah get lost from here...so thank God there are many  
22 people, I mean, and I know a lot of people who said: 'We are  
23 not prepared, we do not have checks, we do not have so and so,  
24 we will send it by mail! We distributed...I distributed a  
25 large amount."

1 Q. "Thank God, what about Boston?"

2 A. "What?"

3 Q. "Boston?"

4 A. "Boston, between us, I feel that it would have been  
5 better for me if I did not go."

6 Q. "Why?"

7 A. "Did the guys tell you that they take fifteen percent?"

8 Q. "Yeah."

9 A. "Why didn't you tell me?"

10 Q. "But that is how they always are, er...Boston."

11 A. "But you must tell me, brother, so that I do not go there  
12 create problems with them..."

13 Q. "No! Did you have a problem with them?"

14 A. "No, I did not do anything..."

15 Q. "But you know that they will take the amount, they will  
16 send us the check."

17 A. "No, I took the check from them. I did."

18 Q. "Did you take the check from them?"

19 A. "Of course."

20 Q. "You are really something, Mufid. Good, I will always  
21 send you to Boston."

22 A. "What do you think I am coming to do?"

23 Q. "Good, give me an amount that will also cheer me up."

24 A. "I would not leave them. I collected twelve thousand  
25 dollars from them."

1 Q. "Twelve thousand? Have you already brought twelve  
2 thousand dollars?"

3 A. "No."

4 Q. "How much did they give you?"

5 A. "There are approximately four thousand in pledges."

6 Q. "Yes."

7 A. "So they kept those pledges...I do not even know their  
8 names."

9 Q. "Good, I will call Osama now."

10 A. "And they took around eight thousands, so the total in  
11 cash they had in hand is eight thousands."

12 Q. "Eight thousand dollars."

13 A. "They took 15 percent..."

14 Q. "Fine..."

15 A. "...so I brought around seven thousands with me."

16 Q. "Seven thousand dollars. Ok, thank God, thank God, you  
17 have become on top of the list, you."

18 A. "Tell me College Station..."

19 Q. "Yes?"

20 A. "You did not know what happened in College Station."

21 Q. "What happened in Co..."

22 A. "It turned out that the guys had been exhausted."

23 Q. "I know."

24 A. "...because you went the last week."

25 Q. "So..."

1 A. "But how much do you think we brought?"

2 Q. "Five thousands?"

3 A. "What?"

4 Q. "Five?"

5 A. "No, man! That is shameful, we do not talk about  
6 fives..."

7 Q. "Ten?"

8 A. "Eleven thousand five hundred which I brought in cash  
9 with me."

10 Q. "You brought with you eleven thousand five hundred? I  
11 swear to God you are something, Mufid. You deserve a kiss  
12 between your eyes. You deserve a kiss between your eyes."

13 A. "Of course this is besides what will come in the mail."

14 Q. "God willing, may God recompense you well. May God  
15 recompense you well, Sheik. Does this mean we will see you  
16 tomorrow?"

17 A. "By the way, between you and me, I am exhausted."

18 Q. "Fine, we will see you tomorrow after the break-of-fast,  
19 God willing."

20 A. "You see, I have arrived from Carrollton."

21 Q. "I know, by God, I know."

22 A. "Who told you?"

23 Q. "You told me, you said, 'I have Carrollton on Sunday. I  
24 want to come for Carrollton.'"

25 A. "By God, I went there, thank God, also..."

1 Q. "How much did you collect in Carrollton?"

2 A. "I do not know, thirty-five to forth thousands for them."

3 Q. "For the mosque, right."

4 A. "Yes, for their mosque."

5 Q. "Well, good, may God recompense you well."

6 A. "That's good, I mean, it is for their mosque; I mean  
7 money for them as they say."

8 Q. "May God recompense you well, Sheik, may God recompense  
9 you well."

10 A. "May God..."

11 Q. "We will see you then, God willing."

12 A. "But by God, Ibrahim, it is a trip...a  
13 trip...tsk-tsk-tsk."

14 Q. "God granted you acceptance, Sheik."

15 A. "God, glory to Him, protected me; the trip to Boston,  
16 man..."

17 Q. "Um..."

18 A. "Exhausted me exhausted me beyond exhaustion."

19 Q. "That is all right, Sheik!"

20 A. "What one..."

21 Q. "You are capable of that and more, Mufid."

22 A. "Er, God willing."

23 Q. "Capable of that and more, and our God will recompense  
24 you well; with those amounts, see how many families will pray  
25 for you, God willing."

1 A. "By God, this is one's hope, Ibrahim."

2 Q. "May God recompense you well."

3 A. "By God this is one's hope, what do you think, it is  
4 one's faith in God; Glory to Him."

5 Q. "May God recompense you..."

6 A. "...now Windsor, we have received in our pocket  
7 twenty-two thousands."

8 Q. "May God recompense you well, our Sheik."

9 A. "Uh-uh?"

10 Q. "Uh-uh."

11 A. "Other than what will be sent, I mean, I phew! By God  
12 these are the blessings of God, glory to him."

13 Q. "Praised by God, praised be God."

14 A. "By God, between you and me, the people are...good  
15 manners and politeness."

16 Q. "Fine our Sheik, let me go, I have to go to the airport,  
17 but I will see you tomorrow, God willing."

18 A. "Fine, peace be upon you."

19 Q. "And peace be you upon you, our Sheik."

20 MS. CADEDDU: Your Honor, under Rule 106 I would  
21 like the Arabic tape to be played as well.

22 THE COURT: I am not sure I understand the purpose  
23 of that.

24 MS. CADEDDU: Well, the purpose, Your Honor, is that  
25 the intonation and the way people talk and the tone of voice

1 is important to understand the context of the conversation. I  
2 think reading it in a monotone does not really give full  
3 effect to the tone of voice that was used.

4 MR. DRATEL: Your Honor, in addition, the italics  
5 are not italics in terms of emphasis, and it distorts the  
6 meaning. And we thought that the italics would be removed  
7 because they have to do -- some are in Arabic and some are in  
8 English, and it distorts the reading so you would  
9 automatically think there is emphasis when it is not. It is  
10 an English word used in the middle of an Arabic sentence, and  
11 without hearing the conversation it really does create -- it  
12 is just hard to read them that way. It has been hard to read  
13 them this way from the beginning. That is why we thought the  
14 italics were going to be removed, so there wouldn't be that  
15 reaction that it is for emphasis.

16 THE COURT: All right. Under the provisions of the  
17 Rule of completeness, I will order that Government's Exhibit  
18 No. 18-6 be played at this time.

19 MR. JACKS: Your Honor, the reason that this  
20 particular exhibit was read as it was, it is my understanding  
21 there is a problem with the audio of the laptop at this time,  
22 and so -- This was the only one that we were going to make  
23 reference to this afternoon, and so that was why it was done  
24 in this manner.

25 We can certainly the next time we are back in Court, once

1 we have time to make sure that the audio is working, play this  
2 exhibit. But that was the purpose and reason it was done at  
3 this time in this manner.

4 THE COURT: So you are telling me that it is not  
5 possible to play 18-6.

6 MR. JACKS: Yes, sir, at this time.

7 THE COURT: Very well. I suppose we will have to  
8 delay that, then, until the next session when the equipment is  
9 working.

10 MR. JACKS: May I proceed, Your Honor?

11 THE COURT: Yes, sir.

12 Q. (BY MR. JACKS) Let me go back just for a moment, Agent  
13 Burns, to your interview with Mufid Abdulqader. During that  
14 interview did you ask him about his relationship, if any, to  
15 Khalid Mishal, the head of Hamas?

16 A. Yes, I did.

17 Q. What did he tell you about his relationship to him?

18 A. He said that it was his half brother.

19 MR. JACKS: May I approach the witness, Your Honor?

20 THE COURT: Yes, sir.

21 Q. (BY MR. JACKS) Agent Burns, I am going to hand you three  
22 file folders labeled Government's Exhibit No. 11-4, 11-7, and  
23 11-9, and ask you to look at those.

24 Do you have 11-4 in front of you.

25 A. Yes, I do.



1 Q. And if you would, just describe what 11-4 is.

2 A. This is a designation and blocking order from the Office  
3 of Foreign Assets Control.

4 Q. What branch of the Government does that fall under?

5 A. The United States Treasury Department.

6 Q. All right. And is that a certified copy of that record?

7 A. Yes, it is.

8 MR. JACKS: Judge, we move the admission of  
9 Government's Exhibit No. 11-4.

10 THE COURT: Any objection?

11 MR. CLINE: No objection.

12 THE COURT: Government's Exhibit No. 11-4 is  
13 admitted.

14 MR. JACKS: Could you display that, please?

15 Q. (BY MR. JACKS) Is that visible on your screen as well,  
16 Agent Burns?

17 A. Yes, it is.

18 Q. And the certification is the first page. Is that  
19 correct?

20 A. Yes.

21 Q. And if you would, go to the second page, please.

22 And if you would, just describe that exhibit for us.

23 A. This is the Department of Treasury's designation and  
24 blocking memorandum pursuant to Executive Order 13224, and it  
25 lists a number of entities and individuals whom it has

1 designated.

2 Q. And if you would, can you tell us the entities that are  
3 relative to this case?

4 A. Yes. No. 1 is the Commiti De Bienfaisance et de Secours  
5 aux Palestiniens--I am sure I butchered that--referred to as  
6 the CDSB. No. 2 is the Palestinian Association of Austria.  
7 No. 3 is the Palestinian Relief and Development Fund, a.k.a.,  
8 Interpal. No. 4 is the Sanabil Association for Relief and  
9 Development. No. 5 is the Association de Secours  
10 Palestiniens.

11 Q. Go ahead.

12 A. I was going to just add that that one is in Switzerland.

13 Q. Okay. And the individuals that are referenced in there,  
14 how many are there?

15 A. There are six individuals.

16 Q. And would you just tell us who they are?

17 A. Yes No. 1 is Sheik Ahmed Ismail. No. 2 is Imad Khalil  
18 Al-Alami. No. 3 is Usama Hamdan. No. 4 is Khalid Mishaal.  
19 No. 5 is Musa Abu Marzouk. And No. 6 is Abdel Aziz Rantisi.

20 Q. Let me direct your attention to 11-5.

21 A. That is not one of the ones that I was handed.

22 Q. I am sorry.

23 A. I have 11-7.

24 Q. I am sorry. No. 11-7. And what is that exhibit and  
25 where is it from?

1 A. This is designation order from the U.S. Treasury  
2 Department, Office of Foreign Assets Control.

3 Q. And is it a certified copy?

4 A. Yes, it is.

5 MR. JACKS: Move the admission of Government's  
6 Exhibit No. 11-7.

7 MR. CLINE: No objection.

8 THE COURT: Government's Exhibit No. 11-7 is  
9 admitted.

10 MR. JACKS: Could you display that, please?

11 Q. (BY MR. JACKS) Just describe or would you describe that  
12 exhibit for us, please, Agent Burns?

13 A. Yes. This is a document, a blocking memorandum which  
14 notes the designation of Mousa Abu Marzook as a specially  
15 designated terrorist.

16 Q. And are there aliases or other names, a.k.a.s listed  
17 there?

18 A. Yes. Mousa Abu Marzook is listed with several a.k.a.s.  
19 The first few involve various spellings of his name, and then  
20 he is also noted as Abu Umar, and he is noted to be the  
21 political leader in Amman, Jordan and Damascus, Syria for  
22 Hamas.

23 MR. JACKS: Go to the second page, please.

24 Q. (BY MR. JACKS) And this again just describes the  
25 blocking memorandum?

1 A. That is correct.

2 Q. What was the date that this memorandum was issued?

3 A. August 16th, 1995.

4 Q. The last paragraph there, what does it refer to, the one  
5 that begins in consequence?

6 A. It states, "...all real and personal property of..."

7 Mousa Marzook "...including but not limited to all accounts in  
8 which the above-named subject has any interest, are blocked;

9 and all transactions involving U.S. persons and..." Mr.

10 Marzook "...named above..." "...are prohibited unless licensed  
11 by the Office of Foreign Assets Control."

12 Q. What is the other exhibit I just handed you that you  
13 have?

14 A. 11-9.

15 Q. And would you please just describe it?

16 A. This is a certified copy of a designation of blocking  
17 order from the Office of Foreign Assets Control.

18 MR. JACKS: Move the admission of Government's  
19 Exhibit No. 11-9, Your Honor.

20 MR. CLINE: No objection.

21 THE COURT: Government's Exhibit No. 11-9 is  
22 admitted.

23 MR. JACKS: Could you display that, please?

24 Q. (BY MR. JACKS) And just, if you would, describe the  
25 first page, Agent Burns, for that exhibit.

1 A. This is the blocking notice for Shaykh Ahmad Yasin,  
2 founder and chief ideological figure of Hamas.

3 Q. And the date that this particular designation went into  
4 effect?

5 A. I believe we have to go to page 4 of the exhibit for  
6 that. And that is January 23rd, 1995.

7 Q. Now, there are other people, individuals that are listed  
8 in this designation. Is that correct?

9 A. Yes, individuals and organizations.

10 Q. Okay. And if you would, is Shaykh Yasin further  
11 described on this page that is shown on the screen?

12 A. Yes. Shaykh Yasin is described as the founder and chief  
13 ideological figure of Hamas.

14 Q. That is like the third paragraph down from the top?

15 A. Yes. And though it was not mentioned on the first page,  
16 this also designated Hamas as a special designated terrorist  
17 on page 2.

18 Q. And just, if you would, just describe where you see that  
19 designation, what listing?

20 A. It is the third name under organizations on page 2, hamas  
21 a.k.a., the Islamic Resistance Movement.

22 Q. Thank you.

23 Do you have Government's Exhibit No. 3-91 in front of you  
24 in the binder?

25 A. Yes, I do.

1 Q. Could you turn to that, please? Do you have it?

2 A. Yes.

3 Q. And how many pages is Government's Exhibit No. 3-91?

4 A. Two pages.

5 Q. And where did it come from, that particular document?

6 A. This was seized from the home of Ismail Elbarasse.

7 MR. JACKS: Your Honor, move the admission of  
8 Government's Exhibit No. 3-91.

9 THE COURT: Any objection?

10 MR. DRATEL: No objection, Your Honor.

11 THE COURT: Government's Exhibit No. 3-91 is  
12 admitted.

13 MR. JACKS: Could you display it, please?

14 Q. (BY MR. JACKS) Now, this document you said came out of  
15 the search of Ismail Elbarasse's house in northern Virginia.  
16 Is that correct?

17 A. Yes.

18 Q. If you would, just describe what this document shows.

19 A. This is a listing of the I.A.P. executive committee and  
20 I.A.P. co-executive committee.

21 Q. And you have made reference -- Just describe, if you  
22 will, the names shown.

23 A. Individuals that we have already mentioned, the first one  
24 is Y. Bushnaq. That is Yasser Bushnaq in Dallas, Texas.  
25 Ghassan Saleh down the first page is Ghassan Saleh that we

1 mentioned earlier, Ismail Elbarasse is the individual from  
2 whose home this was seized.

3 Q. And where is he mentioned on this list?

4 A. He is on the bottom right corner of the first page.

5 Q. Is that Ismail Barassi where it says  
6 "Washington-National"?

7 A. Yes. That is a phonetic spelling of his name.

8 Q. Go ahead.

9 A. And then on the second page, on the top half of the page  
10 the first individual in the left hand corner Fawaz Mushtaha.

11 Q. Where was that name mentioned earlier? What is the  
12 relationship?

13 A. The search warrant that was conducted on his home in  
14 2003.

15 Q. Okay. And is the source of some of the exhibits in the  
16 case?

17 A. Yes.

18 Q. Okay. Go ahead.

19 A. Basman Elashi and Ghassan Elashi.

20 Q. And where does it show where Basman Elashi and Ghassan  
21 Elashi resided at the time this was generated?

22 A. In Los Angeles, California.

23 Q. And if you will, just tell us what it shows there for the  
24 location for the Islamic Association of Palestine.

25 A. It shows the information office for the I.A.P. to be that

1 same, P.O. Box 741805 in Dallas, Texas.

2 Q. Do you have Government's Exhibit No. 5-18 in front of  
3 you?

4 A. Yes, I do.

5 Q. And how many pages is that exhibit?

6 A. Two pages.

7 Q. And what is the source of that particular exhibit?

8 A. This is a record obtained from Commerce Bank.

9 MR. JACKS: Judge, we move the admission of  
10 Government's Exhibit No. 5-18.

11 MR. CLINE: Objection; relevance and 403.

12 THE COURT: What is the relevance, Mr. Jacks?

13 MR. JACKS: Your Honor, it is to show the  
14 association and the relationship between Mousa Abu Marzook and  
15 the Islamic Association of Palestine.

16 MR. CLINE: It is dated 1985, your Honor, from the  
17 exhibit list.

18 MR. JACKS: That may go to the weight, Your Honor,  
19 but it still we believe relevant.

20 THE COURT: I think I am going to sustain the  
21 objection to relevance without some further explanation. I  
22 believe that the date is pretty remote.

23 Q. (BY MR. JACKS) Agent Burns, you have discussed briefly  
24 the source of the materials that you used or some of the  
25 sources of materials that you used to conduct your



1 investigation.

2 In the course of conducting this investigation, did you  
3 come across documents or audiotapes or videotapes that made  
4 reference to the Muslim Brotherhood.

5 A. Yes, I did.

6 Q. And in the course of examining all of these items, did  
7 you become familiar with the terms that are used by the Muslim  
8 Brotherhood?

9 A. Yes, I did.

10 Q. Let me ask you regarding some of those terms. A term  
11 like --

12 MR. DRATEL: Objection, Your Honor. What is the  
13 basis for this? Is this testifying as an expert? In what  
14 capacity are these Arabic terms originally, the documents or  
15 information that they came from -- there is a whole range of  
16 providence objections, and basis for knowledge.

17 THE COURT: I am not sure I have heard the question  
18 yet so I am going to hold the objection in abeyance for a  
19 moment until I hear the question.

20 Q. (BY MR. JACKS) Let me ask you, Agent Burns, I am going  
21 to put this question to you to allow the Judge to rule. In  
22 the course of this investigation, did you become familiar with  
23 the term ikwad (phonetic)?

24 A. Yes, I did.

25 MR. DRATEL: Your Honor, objection. I will let Mr.

1 Cline --

2 MR. CLINE: Your Honor, I object on 401 and 403  
3 grounds. I also object because I believe this is going to be  
4 opinion testimony. We have had no expert notice and haven't  
5 had the sort of hearing that we would normally have.

6 THE COURT: I will sustain the objection to the  
7 question as framed, Mr. Jacks. When you say "become familiar  
8 with," I think we need to find out more what that means, how  
9 she became familiar with it and what context. Sustained.

10 MR. JACKS: Yes, sir.

11 Q. (BY MR. JACKS) In reviewing documents that made  
12 reference to the Muslim Brotherhood, did you come across terms  
13 that you saw quite often or that repeated?

14 A. Yes, I did.

15 Q. All right. And did you either through -- Did you seek to  
16 determine what those terms meant?

17 A. During witness interviews of native Arabic speakers I  
18 asked the question, consulted --

19 MR. DRATEL: Objection. I believe hearsay is coming  
20 in.

21 THE COURT: It sounds like it, but overruled at this  
22 point.

23 Q. (BY MR. JACKS) So you said you talked to persons that  
24 spoke Arabic?

25 A. That is correct.

1 Q. Did you do research and read materials about the Muslim  
2 Brotherhood?

3 A. Yes, I did.

4 Q. In those materials was there information about the  
5 terminology or terms that applied to the Muslim Brotherhood?

6 A. Yes.

7 MR. DRATEL: Still hearsay, Your Honor, even if it  
8 is written.

9 THE COURT: Sustained.

10 Q. (BY MR. JACKS) Let me ask you, Agent Burns, you said  
11 that you had met Mohammad El-Mazain. Is that correct?

12 A. That is correct.

13 Q. And have you interviewed him?

14 A. Yes, I have.

15 Q. How many times, if you recall?

16 A. More than once.

17 Q. All right. Were any of those interviews conducted in the  
18 presence of his attorney --

19 A. Yes.

20 Q. -- at the time?

21 A. Yes.

22 Q. In the course of that interview or that interview that I  
23 am referring to, did you ask him whether or not he was a  
24 member of the Muslim Brotherhood?

25 A. I did.

1 Q. And what did he say?

2 A. He said he was.

3 Q. I am sorry?

4 A. He said that he was a member of the Muslim Brotherhood.

5 Q. In the course of examining materials that you  
6 were -- were presented to you in this case, did you come  
7 across materials that made reference to the Muslim  
8 Brotherhood?

9 A. Yes, I did.

10 Q. Do you have Government's Exhibit No. 3-14 in front of  
11 you?

12 A. Yes, I do.

13 Q. Where did that exhibit come from originally?

14 A. This document was seized from the home of Ismail  
15 Elbarasse.

16 Q. How long is that exhibit?

17 A. Five pages.

18 Q. And if you would, describe -- Is it in an Arabic version  
19 and a translated version?

20 A. Yes. The first two pages of the exhibit are the Arabic  
21 typewritten --

22 Q. How many pages are in Arabic?

23 A. Two.

24 Q. All right.

25 A. And then the following three pages are the English

1 translation of that document.

2 Q. And obviously you have reviewed the English translation.  
3 Is that correct?

4 A. That is correct.

5 MR. JACKS: Judge, we move the admission of 3-14.

6 MR. DRATEL: Objection, Your Honor; hearsay  
7 providence, foundation. We have no idea who wrote it. There  
8 is no indication anyway of any kind of authentication of the  
9 document, and it is total hearsay.

10 MR. JACKS: Your Honor, we are offering it as a  
11 co-conspirator's exception to the hearsay rule.

12 MR. DRATEL: Your Honor, I think as a threshold  
13 matter there has been no showing that it is admissible under  
14 that exception.

15 THE COURT: I agree. I think we need a further  
16 foundation before I could consider admitting it on the basis  
17 of that exception. Sustain the objection as the record  
18 currently stands.

19 MR. JACKS: Your Honor, in order to lay the  
20 foundation, we would have to make reference to the contents of  
21 the document, and so I don't know how the Court wants to  
22 approach this, but the next series of exhibits are going to be  
23 of a similar nature, and it is one of those matters that the  
24 Court indicated in pretrial conferences that you would have to  
25 make a decision at the time regarding the state of the

1 evidence and that type of thing.

2 THE COURT: Well, perhaps we should go ahead and  
3 excuse the jury for the day and let you make your offer of  
4 proof in that regard.

5 Ladies and gentlemen, you may remember I announced  
6 beginning of the week that we would only be in session Monday  
7 through Thursday, and this being Thursday afternoon, we will  
8 be in recess until next Monday morning.

9 Because we will be away from each other for several days  
10 and nights, I want to go over with you again to refresh your  
11 memories and to emphasize the importance of observing the  
12 rules that I have given you regarding your conduct as jurors  
13 in this case.

14 First, don't discuss this case with anyone or permit  
15 anyone else to discuss it with you. That includes your  
16 family, your friends, and the people with whom you work or  
17 associate.

18 Second, don't do any research or investigation about this  
19 case on your own, including on the internet. Don't read or  
20 watch or listen to any media accounts of the case, if there  
21 are media accounts either in the newspaper or on television,  
22 radio, or the internet. And don't have any contact or  
23 conversation with anyone that you know to be connected with  
24 the trial of this case.

25 I hope all of you have a pleasant weekend, and we will

1 see you Monday morning at 9:00.

2 (Whereupon, the jury left the courtroom.)

3 THE COURT: I don't believe I have a copy of that  
4 document, Mr. Jacks, so if you feel that you need to display  
5 its contents to me in order to make your offer of proof under  
6 the co-conspirator hearsay exception, perhaps you should  
7 display it on the screen.

8 MR. JACKS: Yes, Your Honor.

9 If I may, before doing that, if the Court has the  
10 Government's exhibit list in front of it.

11 THE COURT: Yes.

12 MR. JACKS: On the first page it talks about the  
13 exhibits that are in what I will refer to as Series 3, and it  
14 shows to be 99 in number, and that those exhibits came from  
15 the search of Ismail Elbarasse's residence.

16 THE COURT: Yes, sir.

17 MR. JACKS: So all of those items listed in that  
18 Series 3 fall within that category, or that is where they came  
19 from.

20 Rather than just focusing on this particular exhibit, the  
21 same -- essentially the same argument is going to apply for a  
22 large number of these items that the Government is going to be  
23 offering under the co-conspirator exception to the hearsay  
24 rule, or, as we stated in our trial brief, the joint venture  
25 exception, if you will, under the Rules of Evidence.

1           With regard to all of these items, what I had intended to  
2 do and thought about trying to do, but I wasn't sure if the  
3 Court would welcome this suggestion, was to provide a binder  
4 to the Court with all of these items listed -- Not listed. I  
5 am sorry. Actually copies of them, so that the Court can  
6 review them. They vary in length. Some of them, you know,  
7 are just a few pages. Some of them are more. I can make  
8 reference to the excerpts on the longer ones to the part that  
9 the Government contends or intends to submit, and my intention  
10 was to -- I think I was going to try to do it in some kind of  
11 chart form and just show the Court the Government's theory  
12 under which it should be admissible under the co-conspirator  
13 exception to the hearsay rule, or if it falls under another  
14 exception, and also make reference to that.

15           I just -- I thought that might be the most efficient way  
16 to do it, rather than going item by item and having the jury  
17 sit here.

18           And I am not sure if I could have done it earlier, Your  
19 Honor, given the Court's perfectly logical answer that, "Well,  
20 I won't know until we get to that point in the trial." So I  
21 apologize that, you know, this hasn't been done, but I do  
22 think that it might be the most efficient way for the Court to  
23 look at these documents and make a decision on them.

24           A lot of what the Government submits will support the  
25 admissibility of what is contained within the documents and



1     also the correlation between these documents. In other words,  
2     one item in one document would support the inference that the  
3     other document is also a co-conspirator statement, which is  
4     permissible under *Bourjailly* and the under 801(d)(2)(E). So  
5     that was one thing I contemplated doing.

6             I don't know if the Court is interested in that or  
7     thinks --

8             THE COURT: I guess it depends on timing. We don't  
9     have to worry about the jury waiting anymore, since they have  
10    been excused for the next few days, but when exactly did you  
11    expect to have this chart available for me to look at and the  
12    documents to which it refers?

13            MR. JACKS: I have got the documents copied and in  
14    binders and can deliver those tomorrow. The chart, if you  
15    will, I think I can have by the end of the day tomorrow. And  
16    as I said, I just think it is an unusual thing to do, but I  
17    think in the long run it will speed things up and somewhat  
18    accelerate the issues of our disagreeing over these exhibits  
19    and whether they are admissible or not.

20            THE COURT: I am certainly willing to give it a try.  
21    I think it would also be helpful in connection with the  
22    preparation of this chart. And this need not be lengthy, but  
23    if you would set out for me what elements you think you have  
24    to prove as the proponent of this evidence to meet this  
25    co-conspirator exception and how these various excerpts that

1     you are relying on satisfy that burden.

2             MR. JACKS: We touched upon that some in your trial  
3     brief, but certainly I can restate that or take the applicable  
4     parts and put it in this document that I am talking about.  
5     But anyway --

6             THE COURT: Well, I will need that, in order to do  
7     me any good, by the close of business tomorrow so that I can  
8     review it over the weekend and be prepared to make a decision  
9     on Monday morning whether you have in my view satisfied your  
10    burden or not.

11            MR. JACKS: And in the event -- I am not sure how  
12    long it will take, Your Honor. But in the event I don't get  
13    all the way through it, I will certainly give the Court what I  
14    have with regard to the exhibits and then supplement it later.

15            THE COURT: Just on another subject that may affect  
16    our progress on Monday when we next are in session, it is my  
17    understanding that there is some malfunction of the equipment  
18    to play audio on the Government's laptop, and so it is my  
19    understanding that efforts will be underway in the next few  
20    days to remedy that problem.

21            MR. JACKS: Yes, sir.

22            MR. CLINE: Excuse me, Your Honor.

23            THE COURT: Yes, sir.

24            MR. CLINE: On the issue of the co-conspirator  
25    statements, if we could get both the binder from Mr. Jacks and

1 the chart as soon as it is available at whatever shape it is  
2 available, we can be prepared Monday morning to address the  
3 issue. If Your Honor would like to start early, we are happy  
4 to do that.

5 THE COURT: I don't know that I need to hear from  
6 the Defendants. I think it is the Government's burden, and I  
7 understood from Mr. Jacks that he thinks he can satisfy this  
8 burden by simply what is in the documents themselves. I  
9 reserve decision on that. I don't know if that is so or not.  
10 But I don't want to spend a lot of time while the jury is  
11 waiting on Monday morning at 9:00 hearing from lawyers. We  
12 can spend all day arguing about this.

13 MR. CLINE: I just am wondering if it would be  
14 possible, because there may be some legal issues as well, if  
15 it would be possible to get together a little early Monday  
16 morning and spend 15 minutes or so discussing that.

17 THE COURT: I don't object to that, if we can in 15  
18 minutes, but you know everybody on that side of the table, if  
19 everybody wants to be heard, about two minutes each --

20 MR. CLINE: How about if we agree that only one of  
21 us will speak?

22 THE COURT: That is a start.

23 MR. CLINE: We will agree that only one of us will  
24 speak. I will not commit to which one, but only one of us  
25 will speak.

1           MR. JACKS: I will nominate Mr. Jonas for the  
2 Government.

3           THE COURT: All right.

4           MR. CLINE: So, Your Honor, just to be clear,  
5 because I don't want to be coming back in, 8:45 on Monday  
6 morning. Is that all right?

7           THE COURT: Yes, sir.

8           MR. JACKS: May I just ask, do you want me to create  
9 a separate binder for you or can you simply print out what is  
10 shown on the exhibit list?

11          MR. CLINE: If the binder is just going to contain  
12 the 3 series exhibits, we don't need a second binder.

13          MR. JACKS: All right.

14          MR. DRATEL: Your Honor?

15          THE COURT: Yes, sir.

16          MR. DRATEL: Just two things. One is so we don't  
17 have the situation following with the transcripts, like if the  
18 Court could inquire of the Government whether it is going to  
19 remove those italics so that it doesn't create an issue.

20          THE COURT: I did intend to raise that myself, but  
21 since you have raised it, what about that, Mr. Jacks? I have  
22 not seen the transcript that was utilized earlier when you and  
23 Agent Burns were reading from it, so I did not observe  
24 personally that it was in italics, but evidently that is an  
25 issue of concern to the Defense.

1           MR. JACKS: Yes, Your Honor. In fact I believe it  
2 was Ms. Hollander or Ms. Duncan, she had written me a letter  
3 or an email, I am not sure which, but asking the Government to  
4 remove the italics. And let me give the Court a copy of this  
5 particular transcript. And the first page there, the key or  
6 index, whatever you care to call it, shows that italics are  
7 used to indicate that the speakers said something in English,  
8 and that is the purpose for the italics. And I think that the  
9 Government's position is that that is reasonable and it is not  
10 prejudicial to the Defendants. I mean, it does what it  
11 purports to do. It just says at this particular point in the  
12 conversation they said something in English. I don't think it  
13 unduly emphasizes that word.

14           I know that that is a writing style that some people use,  
15 when they want to emphasize something they will convert it  
16 from a regular font to an italics, but I don't think that a  
17 juror would think that, you know, that this is -- you know,  
18 that there is something extra that ought to be taken from this  
19 word.

20           I just don't simply think that it is that prejudicial,  
21 particularly when they can see, or if we have to just tell  
22 them, you know, at one time that that is the reason these  
23 things are in italics. It is not because you need to pay  
24 special attention to this word. It is just because the  
25 speakers, you know, instead of speaking Arabic they have now

1 spoken in English, or whatever the difference may be. And I  
2 just don't think it is that prejudicial, and it does  
3 help -- It might help the jurors if they are following these  
4 transcripts to -- You know, if they get lost during the  
5 Arabic, and they can say, "Okay. Here is an English word," so  
6 it might in fact serve a benefit to get them reoriented, and I  
7 don't think that the prejudice is there.

8 MR. DRATEL: Your Honor?

9 THE COURT: Just a moment, Mr. Dratel.

10 When the jury filed out, I have thought maybe we would  
11 need testimony from you on this co-conspirator exception to  
12 the hearsay rule, but evidently we don't for the moment. And  
13 for the record, let me say that Mr. Jacks handed me just now  
14 Government's Exhibit No. 18-5, which is apparently a 12-page  
15 transcript that was the subject of this afternoon of him and  
16 Agent Burns reading.

17 I had not, to my memory, seen this before, Mr. Dratel, so  
18 I guess my assumption, based upon your comments, that the  
19 italics was for emphasis, but I now understand it is to  
20 distinguish the English part of the conversation from the  
21 Arabic part of the conversation.

22 MR. DRATEL: That is the problem, Your Honor.  
23 Because I have read some of these conversations a half dozen  
24 times, and even myself I can't just say when I read it, it  
25 automatically, from training about what italics -- I mean, I

1 have to stop myself and say, "No, this is not for emphasis."  
2 And it totally takes out from the comprehension and it creates  
3 a totally different context in the way that you read it. And  
4 I think that someone following Mr. Jacks the way it is  
5 supposed to, the jury is not going to know Arabic. They are  
6 not going to be following Arabic. It is all in English. The  
7 fact one is English is not going to make a difference to a  
8 juror reading a transcript. All it does is interfere with  
9 your comprehension of it.

10 THE COURT: You think it should all be in Roman  
11 type?

12 MR. DRATEL: There are other conversations, very  
13 long, very involved, with some very long passages from people,  
14 and when you see this it just completely disrupts -- it  
15 stymies your ability to follow and really grasp the  
16 conversation the way it happens as opposed to -- And  
17 particularly on the fly where jurors are going to be listening  
18 to a conversation and read on the fly, they can't do it like  
19 we do it in preparation, which is look at it, look at it,  
20 figure out, go back to the beginning, read it in Arabic or  
21 English which language is it.

22 THE COURT: Mr. Jacks makes the point, which I  
23 thought was persuasive, that in a conversation such as this  
24 one reflected in 18-5, that the portions in English would be  
25 sort of guideposts to someone who doesn't speak Arabic, but

1     you could at least recognize the English portions of this  
2     conversation and sort of see where you are in the transcript.  
3     Are you telling me that the English is unintelligible to an  
4     English speaker?

5             MR. DRATEL:  No.  I am saying what is the  
6     difference?  If they will be following it in Arabic, hearing  
7     it in Arabic, it will be of no comprehension value to him.  
8     The comprehension value is the transcript, and this actually  
9     interferes with that comprehension value.

10            THE COURT:  Well, I am not persuaded by your  
11     argument, so I am not going to require the Government to  
12     change the italics.  I think it probably would be useful.  And  
13     I don't know that the jury has seen this either.  I think this  
14     was not displayed to them this afternoon when this portion of  
15     the conversation was read.

16            MR. DRATEL:  I think it was, Your Honor.  It looked  
17     like they were reading.

18            MR. JACKS:  It was on the screen.

19            THE COURT:  Did you say it was or was not?

20            MR. DRATEL:  I believe it was.  It looked like they  
21     were reading.

22            MR. JACKS:  It was on the screen.

23            THE COURT:  Okay.  I didn't remember that.  So it  
24     may be that we need to clarify to them what the meaning of  
25     italics is in these transcripts; that it is a reflection of



1 the English portion of the conversation rather than any  
2 emphasis on the words. But other than that, I am going to  
3 overrule the objection, if there is one on that ground.

4 And insofar as the Rule 106 objection that was made  
5 earlier by Ms. Cadeddu, I have been reflecting on that and I  
6 don't know that I see the utility, especially if that is going  
7 to be a recurring request every time one of these transcripts  
8 comes up. So I think I would like to have some briefing on  
9 that and some case law if you are serious about pursuing that  
10 on what other courts have done when faced with this situation.

11 MS. CADEDDU: Yes, Your Honor.

12 THE COURT: And so I would like that before we begin  
13 on Monday morning, preferably by the close of business  
14 tomorrow afternoon, so I can have a decision about it before  
15 we begin on Monday.

16 MR. WESTFALL: Your Honor, one other thing on the  
17 transcripts. Mr. Jacks handed you one where the key in the  
18 front it says "italics spoken in English." The vast majority  
19 of them, though, say in their key "italics" and then "spoken  
20 in foreign languages." So the vast majority of those  
21 transcripts it doesn't say italics equals English, even though  
22 that is a fact. Virtually every time, any time they are  
23 speaking in italics that I have seen it has been in English.  
24 But if we never hear the recordings especially, the  
25 translations where it just says "italics spoken in foreign

1 languages," I think we would all feel much more comfortable if  
2 that were cleared up that when it is italics we actually know  
3 the language they are speaking in.

4 MS. HOLLANDER: Actually, Your Honor, there are some  
5 in English. There aren't very many, but there are some in  
6 English and the italics are what is in Arabic because the  
7 italics, or whatever, is not the major language of the  
8 conversation.

9 THE COURT: Okay. Well, perhaps that needs to be  
10 clarified in some fashion before any extensive use of these  
11 transcripts is made.

12 MR. JACKS: Yes, sir. And I don't know if that just  
13 means an instruction to the jury to let them know that this is  
14 what it is, or if having the witness each time that one of  
15 these is played just clarify that, you know, the bulk of the  
16 conversation is in this language, but as you can see from the  
17 key if they speak in a different language then it will be in  
18 italics.

19 THE COURT: How many of these transcripts do you  
20 anticipate we will be using in the course of this trial?

21 MR. JACKS: Well, I think we were thinking in terms  
22 of a couple of hundred, and we have been seriously thinking  
23 about reducing that. So I mean, right now I would say the  
24 universe, the outside universe is a couple of hundred, and  
25 then with our hope that, you know, we -- And again, I should

1 say with some of those it will be excerpts, not the entire  
2 conversation. So --

3 THE COURT: With that number it sounds to me like  
4 probably, even though this will be a little more time  
5 consuming, but it would probably be a good idea that every  
6 time you use one of these to cover with whatever witness is  
7 being questioned about it what the meaning of italics in that  
8 particular transcript is.

9 MR. JACKS: Yes, sir. We can do that.

10 THE COURT: Anything else?

11 MR. DRATEL: Yes, Your Honor. Two things. One is  
12 in the Court's rule for the conduct at trial Section 5.5, it  
13 says, "In advance of each trial sentence counsel for the party  
14 conducting direct examination at that session should show  
15 opposing counsel the exhibits he or she intends to introduce  
16 at that session." We did not get that today, and I would hope  
17 that this would be something that will be rectified.

18 THE COURT: It did not seem that things were very  
19 well organized today, and I have heard anecdotally that that  
20 was because we made faster progress than the Government  
21 anticipated, which I guess is a good thing. But it did seem  
22 to throw things out of whack for the balance of today.

23 Yes, I do want to emphasize that requirement to all  
24 parties, and would hope that Monday the Government will be in  
25 compliance with that, as well as the *Jencks* material

1 requirement, which I think my scheduling order also requires  
2 to be given at least by the -- Well, the statute itself  
3 requires at least by the time cross examination begins, and I  
4 think my scheduling order says by the time the witness is  
5 called to the stand.

6 MR. JACKS: Yes, Your Honor. And I apologize, but  
7 the Court is correct in that the Government anticipated that  
8 the witnesses that we had today would basically fill up the  
9 day, and so that is not an excuse, but it is an explanation.

10 And I apologize for not having the exhibits to give to  
11 them, because, quite frankly, I didn't think we would reach  
12 Agent Burns today.

13 With regard to the *Jencks*, I have indicated to the Court  
14 this morning or -- yes, this morning, that I hoped I would  
15 have it by the end of the day today. I told Defense  
16 counsel--I don't think I have told all of them because they  
17 were not all in the courtroom at the time--that I will have it  
18 by in the morning, and the reason I don't have it now as  
19 opposed to in the morning is that it is classified, and not  
20 all of it but part of it is, so I have to get it declassified  
21 and I will have it for them in the morning.

22 THE COURT: Along that line, or at least in my mind  
23 it is related, Mr. Dratel, I think my order also says  
24 something--it may not be that exact section--to the effect  
25 that if counsel is examining a witness about a series of

1 documents, that those documents should all be placed on the  
2 witness chair at the beginning of the examination, and that  
3 really was not done by the Defense when they were cross  
4 examining our first witness Doctor Levitt.

5 MR. DRATEL: Thank you, Your Honor.

6 THE COURT: Anything else? If not, we will be in  
7 recess until 8:45 Monday morning.

8 (End of Day.)

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1 I HEREBY CERTIFY THAT THE FOREGOING IS A  
2 CORRECT TRANSCRIPT FROM THE RECORD OF  
3 PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.  
4 I FURTHER CERTIFY THAT THE TRANSCRIPT FEES  
5 FORMAT COMPLY WITH THOSE PRESCRIBED BY THE  
6 COURT AND THE JUDICIAL CONFERENCE OF THE  
7 UNITED STATES.

8  
9 S/Shawn McRoberts

08/15/2008

10 \_\_\_\_\_DATE\_\_\_\_\_  
11 SHAWN McROBERTS, RMR, CRR  
12 FEDERAL OFFICIAL COURT REPORTER  
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